

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
	)	File No. EB-TCD-13-00007004
OneLink Communications, Inc.	)	NAL/Acct. No.: 201632170001
	)	FRN: 0007539471
)	
	)	File No. EB-TCD-16-00020892
TeleDias Communications, Inc.	)	NAL/ Acct. No.: 201632170002
	)	FRN: 0007513815
)	
	)	File No. EB-TCD-16-00020893
TeleUno, Inc.	)	NAL/Acct. No.: 201632170003
	)	FRN: 0005835558
)	
	)	File No. EB-TCD-16-00020894
Cytel, Inc.	)	NAL/Acct. No.: 201632170004
	)	FRN: 0020071205

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: February 12, 2016

Released: February 12, 2016

By the Commission: Commissioner Pai issuing a statement; Commissioner O’Rielly approving in part and dissenting in part.

I. INTRODUCTION

1. We propose a penalty of \$29,600,000 against OneLink Communications, Inc. (OneLink); TeleDias Communications, Inc. (TeleDias); TeleUno, Inc. (TeleUno); and Cytel, Inc. (Cytel), (collectively, the Companies), for apparently violating multiple statutory provisions and Federal Communications Commission (Commission) rules, as set forth below. The Companies (all of which are managed by OneLink) apparently perpetrated an array of fraudulent, deceptive and manipulative practices that targeted consumers with Hispanic surnames. The apparent practices reflect an ongoing, expansive, calculated, and multi-pronged campaign to allegedly “win” customers through deceit and fraud. The Companies’ apparent practices included misrepresenting themselves to consumers including by “spoofing” the Companies’ telephone number, tricking consumers into making statements or disclosing information that the Companies recorded and then used to “verify” that the consumer had authorized a change in telephone service provider, charging for services that the consumer had not ordered, and submitting to the Commission false and/or misleading information.

2. After reviewing numerous complaints against the Companies and investigating the allegations, we propose the penalty against the Companies for apparently changing the long distance carriers of numerous consumers without first verifying that the consumers had authorized the change in accordance with our rules (a practice commonly known as “slamming”), and for charging consumers for long distance services that they never authorized (a practice commonly referred to as “cramming”). Based on consumers’ complaints and other evidence in the record, we find that the Companies, acting through their telemarketers, apparently engaged in deceptive marketing to obtain information from the consumers that the Companies then used to fabricate audio recordings as evidence of consumer

“authorization.” In many cases, the Companies claimed to be calling the consumers from a U.S. Post Office or elsewhere under the pretext of notifying the consumer about a package delivery. The Companies then provided fabricated audio recordings to the Commission as purported proof that consumers had authorized the Companies to switch their long distance carriers.

3. We take this action after reviewing more than 200 consumer complaints against the Companies, 142 of which arise from apparent slams, crams, and misrepresentations that took place within the twelve months prior to the release of this Notice of Apparent Liability (NAL).¹ Based on our review of the facts and circumstances surrounding these apparent violations,² we propose a total monetary forfeiture of \$29,600,000 against the Companies—\$8,020,000 (OneLink), \$7,660,000 (TeleDias), \$9,620,000 (TeleUno), and \$4,300,000 (Cytel).

II. BACKGROUND

4. OneLink,³ TeleDias,⁴ TeleUno,⁵ and Cytel⁶ are resellers of domestic and international long distance telecommunications services.⁸ OneLink operates the Companies as a single enterprise in

¹ A total of 142 slamming and cramming complaints: OneLink, 36 complaints; TeleDias, 37 complaints; TeleUno, 48 complaints; and Cytel, 21 complaints.

² Documents produced by the Companies pursuant to the Commission’s subpoenas are cited in this NAL by Bates stamp numbers. The Companies’ written responses to the subpoenas are: OneLink Communications, Inc.’s Objections and Response to Subpoena Duces Tecum (Aug. 7, 2015), cited herein as OneLink Response; OneLink Communications, Inc.’s Supplemental Response to Subpoena Duces Tecum (Sept. 30, 2015); TeleDias Communications, Inc.’s Objections and Response to Subpoena Duces Tecum (Aug. 7, 2015), cited herein as TeleDias Response; TeleDias Communications, Inc.’s Supplemental Response to Subpoena Duces Tecum (Sept. 30, 2015); TeleUno, Inc.’s Objections and Response to Subpoena Duces Tecum (Aug. 7, 2015), cited herein as TeleUno Response; TeleUno, Inc.’s Supplemental Response to Subpoena Duces Tecum (Sept. 30, 2015); Cytel Inc.’s Objections and Response to Subpoena Duces Tecum (Aug. 7, 2015), cited herein as Cytel Response; Cytel, Inc.’s Supplemental Response to Subpoena Duces Tecum (Sept. 30, 2015).

³ OneLink, owned by Enrique Martinez, is located at 8400 N. University Drive, Suite 204, Tamarac, Florida 33321-1700. *See* FCC Form 499-A, filed Apr. 1, 2015. OneLink’s “Acting CEO” is Geri Eubanks. OneLink Response at 18. Geri Eubanks, together with her husband Gary Eubanks, previously owned and managed another toll reseller, OLS, Inc. *See* OneLink Response at 40.

⁴ TeleDias, owned by Carmen Asorey, is located at 1100 California Dr., Suite 204, Reno, Nevada 89509. *See* FCC Form 499-A, filed Apr. 1, 2015.

⁵ TeleUno, owned by Avelino Iglesia, is located at 2754 W. Atlantic Blvd., Pompano Beach, Florida 33069. *See* TeleUno Response at 11. TeleUno was incorporated in Delaware on June 20, 2000. The incorporator was Jane M. Helein-Scott, a legal assistant for the Helein Law Group. *See* Letter from Jane M. Helein-Scott to the Division of Corporations in Tallahassee, Florida, on behalf of TeleUno (Aug. 1, 2000) (Bates No. TeleUno-0005331). The Helein Law Group is also listed as the TeleDias attorney of record in the company’s “Application for Certification of Public Convenience and Necessity,” filed with the Arizona Corporation Commission (Sept. 27, 2002) (Bates No. TeleDias-0003897).

⁶ Cytel, owned by Cristina Perry (Geri Eubanks’ daughter), is located at 2700 W. Atlantic Blvd., Pompano Beach, Florida 33069. *See* Cytel Response at 11. Another address used by Cytel is 217 Roswell St., Alpharetta, Georgia 30009. *See* Cytel’s Application for Registration of a Foreign For-Profit Corporation in the State of Texas (Apr. 19, 2010) (Bates No. Cytel-0001303).

⁷ *See* ITC-214-20010918-00487 (OneLink); ITC-214-20020808-00394 (TeleDias); ITC-214-20000906-00521 (TeleUno); ITC-214-20100817-00331 (Cytel). The Companies claim that they provide value to their customers by offering “1+ international dialing at lower rates than industry leaders” and that “AT&T does not have a better calling plan.” *See* OneLink handout from September 30, 2015 meeting, at p. 7. Complainants state otherwise. *See, e.g.,* Complaint from F. Ramirez (TeleDias rates were thirty percent higher than AT&T for calls to Mexico); Complaint from L. Garcia (TeleDias rates were three times higher than AT&T for calls to Mexico).

⁸ The Companies offer “1+” dialing long distance service. This allows a consumer to make long distance calls by dialing “1” plus the area code and local telephone number of the person the consumer wishes to call. Using “1+”

Alpharetta, Georgia,⁹ and provides back office and administrative support for the Companies.¹⁰ For a consumer to use the services of OneLink, TeleDias, TeleUno, or Cytel, the consumer's long distance service provider must be affirmatively switched to one of the Companies.¹¹ Based on the evidence in the record, in some cases the Companies changed complainants' long distance providers (e.g., changed from AT&T to OneLink) and in other cases they did not.¹² In either case, the Companies billed the complainants for long distance service, plus a monthly recurring charge,¹³ by placing charges on local telephone bills issued by the local exchange carriers (LECs).

5. The Companies' billing process involves three parties: the Companies themselves, which are third-party long distance carriers; billing aggregator Billing Service Group (USBI);¹⁴ and LECs that

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dialing is also referred to as "direct-dialing" because once a customer chooses to presubscribe to an interexchange carrier (IXC), the consumer's calls are directly routed to and billed by that IXC.

⁹ OneLink Response at 14. In a meeting with Bureau staff on September 30, 2015, the Companies acknowledged that although they are independently owned, they are all managed by OneLink; that TeleDias, TeleUno, and Cytel have no employees; and that the presidents and owners of the Companies are figureheads. The Companies maintain that they were initially organized in this manner to avoid the appearance of one larger company threatening the business of the local exchange carriers (LECs), and that they have continued to retain this corporate structure as a matter of convenience despite the fact that they are run as one entity. We note, however, that third party resellers often set up separate corporate entities to dilute the number of complaints filed against any one company and thus avoid complaint thresholds that the LECs include in their third party billing contracts. For a more detailed discussion of this strategy, see United States Senate Committee on Commerce, Science, and Transportation, Office of Oversight and Investigations, "Unauthorized Charges on Telephone Bills," Staff Report for Chairman Rockefeller, July 12, 2011 (Senate Report) at p. 22, available at <http://apps.fcc.gov/ecfs/document/view?id=7021859847>. The Companies disputed this characterization of their business structure in their meeting with Bureau staff.

¹⁰ OneLink Response at 14. These services include "Quality Control Management for Inbound, Outbound Sales and Service; Customer Relationship and Retention Management, Billing Support Services; Quality Assurance; Server Maintenance and Support; Third party Billing and Technical Support Services; ANI Management Services; CDR File Extraction Services; Bill File Production Services; Bill File Reporting Services; TPV File Services; File Creation, Uploading, Maintenance and Database Management." *Id.*

¹¹ In the case of switchless resellers, such as the Companies, the calls would be carried over the network of the underlying IXC, which would then charge the reseller for the service.

¹² In some cases, the LEC did not switch the consumer's carrier because he or she had a preferred or presubscribed interexchange carrier (PIC) freeze. A PIC freeze "prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent." 47 CFR § 64.1190(a). In other cases, no carrier change occurred because the consumers did not have a long distance carrier before the Companies added this service.

¹³ Consumers who did not make any toll calls from their landline telephone were still charged the monthly fee.

¹⁴ Because "USBI" charges appear on the consumer's LEC telephone bill, some complainants refer to charges by USBI instead of one of the Companies. *See, e.g.*, OneLink Complaints: Complaint from R. Cordona; Complaint from C. Cuevas; Complaint from H. Del Aguila; Complaint from J. Franco; Complaint from C. Garcia, on behalf of I. Baeza; Complaint from A. Morales; Complaint from F. Ontiveros (not in Appendix); Complaint from E. Ramirez; Complaint from A. Santiago on behalf of F. Santiago; Complaint from M. Sosa; Complaint from J. Sanchez on behalf of J. Suarez; Complaint from F. Torres; Complaint from M. Wong (not in Appendix). TeleDias Complaints: Complaint from M. Cabrera (not in Appendix, complaint filed December 4, 2014, TeleDias response and TPV submitted January 13, 2015); Complaint from A. Gonzalez; Complaint from M. Llanes (not in Appendix, complaint filed January 14, 2015, TeleDias response and TPV submitted February 12, 2015); Complaint from J. Lopez; Complaint from M. Martinez; Complaint from R. Matta (not in Appendix, complaint filed January 16, 2015, TeleDias response and TPV submitted January 21, 2015); Complaint from J. Meade; Complaint from F. Yates. TeleUno Complaints: Complaint from C. Alonso; Complaint from E. Cabral; Complaint from M. Cruz; Complaint from L. Gonzalez; Complaint from P. Lamas; Complaint from R. Rocha; Complaint from T. Salazar. Cytel Complaints: Complaint from J. Garcia; Complaint from E. Perez-Montalvo; Complaint from J. Vinageras;

issue bills to consumers for local and long distance service.¹⁵ In any given month, a consumer may make local calls, for which the LEC provides service, and long distance calls, which are provided by a third-party long distance carrier. The LEC then bills the consumer for both local and long distance service. When the consumer pays her bill, the LEC retains all of the payment for the local service that it provided plus a portion of the payment for long distance service provided by the third-party carrier. The billing aggregator, USBI, receives a portion of the payment as compensation for managing billing requests and payments between the LEC and the third-party carrier. Finally, the third-party carrier receives the balance of the consumer's payment for long distance service; additionally, the third-party carrier bills consumers for a monthly recurring charge regardless of whether any long distance calls were made.¹⁶ In order to add a third-party carrier's charges to a consumer's bill, the third-party carrier generally supplies only a consumer's telephone number and the amount to be charged to the billing aggregator, which directs the LEC to place the charge on the consumer's telephone bill. Proof of consumer authorization for a carrier change is neither provided by the third-party carrier nor required by the LEC.¹⁷

6. The Enforcement Bureau (Bureau) reviewed more than 200 complaints¹⁸ from consumers against the Companies alleging slamming¹⁹ and cramming violations. Bureau staff also contacted approximately 50 complainants to discuss their complaints.²⁰ Some complainants told staff that the Companies' telemarketers asserted that they were calling from a U.S. Post Office to notify the consumer about a package delivery. In several of these cases, complainants maintain that the Companies "spoofed"²¹ the caller identification information to make it look as if the call was coming from an actual U.S. Post Office.²² The record reflects that the Companies used the recording of the telephone conversation (or

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Complaint from E. Citrinblum.

¹⁵ The billing arrangement with a billing aggregator has been described in other slamming and cramming investigations. See, e.g., *GPSPS, Inc.*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 2522, 2523, n.5 (2015) (*GPSPS NAL*), Forfeiture Order, 30 FCC Rcd 7814 (2015); *Optic Internet Protocol, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 9056, 9057, n.10 (2014) (*Optic NAL*), Forfeiture Order, 30 FCC Rcd 2539 (2015); *Telseven, LLC, Calling 10, LLC, Patrick Hines a/k/a P. Brian Hines*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 15558, 15562, n.37 (2012); *VoiceNet Tel.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8874, 8875, para. 4 (2011); *Cheap2Dial Tel.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8863, 8864, para. 4 (2011); *Main St. Tel. Co.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8853, 8854, para. 4 (2011); *Norristown Tel. Co.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8844, 8845, para. 4 (2011).

¹⁶ For a more detailed discussion of third party billing in the cramming context, see Senate Report at pp. 8-10.

¹⁷ As we discuss below, the carrier submitting the request for a carrier change is required to obtain customer verification of authorization. 47 CFR § 64.1120(a)(1). The executing carrier does not verify the submission. *Id.*

¹⁸ One hundred and forty-two of these complaints involve apparent slamming and cramming violations that took place within the twelve-month period prior to the release of the NAL. These complaints are identified in the Appendix. Other complaints discussed in the NAL, but not listed in the Appendix and described as "not in Appendix," arose from slams or crams before the twelve-month period prior to the release date of the NAL. Such complaints are not used to calculate the proposed forfeiture but are included in the NAL to illustrate the Companies' actions.

¹⁹ A slamming violation occurs whenever a carrier submits an unlawful request to change service providers regardless of whether the change actually takes place. See 47 U.S.C. § 258(a) ("No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe."). Some of the complainants did not previously have long distance service. Under these circumstances, we are categorizing the Companies' addition of long distance service as a cram because there was no request for a carrier change.

²⁰ Email correspondence from complainants is considered part of the consumer complaint.

²¹ Consumers who believe that they are victims of spoofing should file a consumer complaint with the FCC, see <https://consumercomplaints.fcc.gov/hc/en-us>. Please include as much information about the spoofed call as possible. See <https://consumercomplaints.fcc.gov/hc/en-us/articles/202654304-Spoofing-and-Caller-ID>.

portions thereof) to create apparently fraudulent “authorization” for a carrier change. Further, the Companies submitted the apparently fraudulent recordings to the Commission as proof of compliance with the applicable rules. Numerous complainants assert that they had never heard of the Companies or of the person who allegedly “authorized” the change in service. All of the complainants contend that the Companies switched their long distance service provider without their authorization or charged them for service they did not request or authorize.

7. Based on the multitude of consumer complaints, the Bureau initiated its investigation by issuing subpoenas to each of the Companies on June 8, 2015.²³ The subpoenas sought information about the Companies’ business practices and various documents and records, including evidence that the Companies had complied with the Commission’s verification procedures prior to switching consumers’ long distance service providers. After the Bureau granted an extension of time, the four Companies responded to the subpoenas on August 7, 2015.²⁴

III. DISCUSSION

8. We find that the Companies apparently willfully and repeatedly violated Sections 201(b) and 258 of the Communications Act of 1934, as amended (Act), and Sections 1.17 and 64.1120 of the Commission’s rules (Rules). Specifically, we find that the Companies apparently violated:

- Section 201(b) of the Act for misrepresentation in connection with marketing calls to consumers and for submitting to the Commission falsified audio “verification” recordings as evidence of consumers’ authorization to switch their carriers and charge them for service;
- Section 1.17 of the Rules for providing false and misleading material information to the Commission in the form of falsified audio “verification” recordings and accompanying letters;
- Section 258 of the Act and Section 64.1120 of the Rules for submitting requests to switch consumers’ preferred long distance carriers without authorization verified in compliance with the Commission’s verification procedures; and
- Section 201(b) of the Act for placing unauthorized charges on consumers’ telephone bills.

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²² Caller identification spoofing is a violation of Section 64.1604(a) of the Commission’s rules. *See* 47 CFR § 64.1604(a) (“No person or entity in the United States shall, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly cause, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information.”). The Companies provided addresses for their telemarketers (all located in La Paz, Bolivia and Cali, Colombia) and verifiers (located in La Paz, Bolivia) in response to the Bureau’s subpoena. *See* OneLink Response at 33-35.

²³ *See* Subpoena to OneLink Communications, Inc., FCC File No. EB-TCD-13-00007004 (June 8, 2015); Subpoena to TeleDias Communications, Inc., FCC File No. EB-TCD-13-00007004 (June 8, 2015); Subpoena to TeleUno, Inc., FCC File No. EB-TCD-13-00007004 (June 8, 2015); Subpoena to Cytel, FCC File No. EB-TCD-13-00007004 (June 8, 2015).

²⁴ *See* Letter from Jane L. Wagner, Marashlian & Donahue, counsel for OneLink, TeleDias, TeleUno, and Cytel, to Erica McMahon, Mika Savir, David Marks, and Selina Ayers, Telecommunications Consumers Division, FCC Enforcement Bureau (Aug. 7, 2015) (on file in EB-TCD-13-00007004). The Companies’ responses are cited herein as: OneLink Response, TeleDias Response, TeleUno Response, and Cytel Response. The Companies did not provide consumer complaints as directed in the subpoenas. The Bureau notified the Companies of this omission on August 21, 2015. *See* E-mail from Mika Savir, Telecommunications Consumers Division, FCC Enforcement Bureau to Michael Donahue, Marashlian & Donahue (Aug. 21, 2015, 10:46 AM). The Companies replied, through counsel, “that they do not retain copies of the underlying complaints.” *See* E-mail from Michael Donahue, Marashlian & Donahue, to Mika Savir, Telecommunications Consumers Division, FCC Enforcement Bureau (Sept. 4, 2015, 11:06 AM).

9. Accordingly, we propose a total forfeiture of \$29,600,000—\$8,020,000 (OneLink), \$7,660,000 (TeleDias), \$9,620,000 (TeleUno), and \$4,300,000 (Cytel)—for the apparent violations that occurred within the 12 months prior to the release date of this NAL.

A. The Companies Engaged in Deceptive Marketing and Provided Fabricated Audio Recordings to the Commission in Apparent Violation of Section 201(b) of the Act

10. Section 201(b) of the Act states, in pertinent part, that “[a]ll charges, practices, classifications, and regulations for and in connection with [interstate or foreign] communication service [by wire or radio], shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.”²⁵ The Commission has stated that “unfair and deceptive marketing practices by interstate common carriers as a general matter, and misrepresentations about a carrier’s identity or the nature of its service to obtain a consumer’s authorization to change his or her preferred long distance carrier specifically, constitute unjust and unreasonable practices under Section 201(b) of the Act.”²⁶ The Commission has also found that fabricating third party verification (TPV) recordings and submitting them to the Commission and state regulatory agencies to make it appear that consumers authorized a carrier change when they did not is a violation of Section 201(b).²⁷

1. The Companies Used a Package Delivery Pretext to Deceive Consumers

11. Bureau staff reviewed numerous consumer complaints and also contacted approximately 50 complainants about the recordings the Companies had provided to the Commission.²⁸ Many complainants state that they received a call about a (nonexistent) package waiting for them at the post office or other location. According to some complainants, in some cases, the telemarketer had “spoofed” the caller identification information so that the consumer would think that the caller was actually calling from a specific U.S. Post Office branch office.²⁹ Complainants subsequently learned that the information they provided to the caller during the conversation about the package (for instance, a “yes” or “si” response or a “confirmation number” for the package delivery) was recorded and used by the Companies or their agents to create an apparently fake TPV.³⁰ Under Section 64.1120 of the Commission’s rules, a carrier can rely on a TPV for consumer authorization for a carrier change, as the Companies do, and the independent verifiers must, among other things, confirm that the consumers with whom they are speaking have the authority to change the carrier associated with their telephone number, wish to change carriers,

²⁵ 47 U.S.C. § 201(b).

²⁶ *Roman LD, Inc.*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 3433, 3435, para. 7 (2015). *See also Preferred Long Distance, Inc.*, Forfeiture Order, FCC 15-147, paras. 9-24 (rel. Nov. 18, 2015) (*Preferred Forfeiture Order*); *Business Discount Plan, Inc.*, Forfeiture Order, 15 FCC Rcd 14461, 14469, para. 17 (2000) (*BDP Forfeiture Order*); *Central Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5517, 5520, para. 7 (2014) (*Central NAL*); *U.S. Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 823, 825–26, para. 7 (2014) (*USTLD NAL*); *Advantage Telecommunications Corp.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6843, 6849, para. 16 (2013) (*Advantage NAL*); *Consumer Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17196, 17198–99, para. 7 (2013) (*CTI NAL*); *United Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 16499, 16502, para. 9 (2012) (*United NAL*); *Silv Communication Inc.*, 25 FCC Rcd 5178, 5180–82, paras. 5–7 (2010) (*Silv NAL*).

²⁷ *See, e.g., GPSPS NAL*, 30 FCC Rcd at 2524–26, paras. 6–11 (2015); *Optic NAL*, 29 FCC Rcd at 9061–63, paras. 14–17 (2014); *United NAL*, 27 FCC Rcd at 16503, para. 11.

²⁸ In addition to the consumer complaints filed with the Commission, the Bureau obtained consumer complaints and TPVs from state regulatory officials, as well as complaints from the Federal Trade Commission and the Better Business Bureau.

²⁹ *See, e.g.,* Complaints from E. Bequer, J. Franco, G. Hernandez-Diaz De Villegas. In addition, staff at the U.S. Post Office in Castle Rock, Colorado verbally confirmed to the Bureau that the Post Office telephone number had been spoofed thousands of times recently and AT&T was investigating the matter.

³⁰ Most of the TPVs submitted to the Commission by the Companies are in Spanish.

and understand that they are authorizing a carrier change.³¹ Here, however, the Companies created apparently fake TPVs using a package delivery pretext call. For example:

- Complainant Lopez received a call on May 28, 2015, from a woman who spoke to him in Spanish and “asked him if his name was J[] Lopez to which he responded [‘si’].”³² The caller went on to say that she had a package for him and gave him a code for the package which was “51580.”³³ The caller asked Mr. Lopez to repeat the code “51580.”³⁴ Subsequently, Mr. Lopez’s long-distance carrier was changed to TeleDias. The TPV recording furnished in support of this carrier change was apparently created from this conversation, using the code as Mr. Lopez’s “birthdate.”³⁵
- Complainant Riquer received suspicious telephone calls regarding a package delivery prior to having his long distance service changed without his authorization, to TeleDias.³⁶ “[The caller verified] my name and address at the beginning of the call. . . . They went on to explain how there was a package that they had tried to deliver and I failed to pick it up. . . . [The second call] was similar in the sense that they said they had been trying to deliver a package and asked whether I had received it and if they could send it again. They also verified my name and address at the beginning of the call.”³⁷
- Complainant Hernandez received a telephone call from a telemarketer stating that there was a package in the post office that had been delayed and the post office needed to send it to her.³⁸ Ms. Hernandez thought the call was suspicious, and “when she asked for my address I did not provide it . . . and [hung] up.”³⁹ The confirmation code that the telemarketer gave Ms. Hernandez, and asked her to repeat, “092060,” was then used by TeleUno as Ms. Hernandez’ birthdate in the fake TPV TeleUno created.⁴⁰
- Complainant Morales recalled “a phone call from someone claiming to be from the post office, and stating that they had a package on hold for me, but they could only give me more information if I was over 18 years old, so they wanted my birth date. This didn’t sound right, so I made up a date (the one [TeleUno] mention[s] in the letter.)”⁴¹
- Complainant Sanchez explained that the “sales person from tele uno stated they were calling from the post office and asked me to verify my name. I did. They went on to say that I had a package at the post office that needed to be picked up today and if I would be able to pick it up. . . . Needless to say there was no package at the post [office].”⁴²

³¹ 47 CFR § 64.1120(c)(3)(iii).

³² Complaint from J. Lopez.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* Mr. Lopez’ birthdate is not May 15, 1980. *Id.*

³⁶ Complaint from A. Riquer.

³⁷ *Id.*

³⁸ Complaint from S. Hernandez.

³⁹ *Id.*

⁴⁰ *Id.* Ms. Hernandez’s birthdate is not September 20, 1960. After listening to the TPV, Ms. Hernandez recognized the caller’s voice on the recording as the same woman who had called her about the package. *Id.*

⁴¹ Complaint from J. Morales. After listening to the TPV, Mr. Morales said that the recording was “[a]bsolutely spliced together. They have patched a call together that is no way near the conversation we had.” *Id.*

⁴² Complaint from W. Sanchez (not in Appendix, complaint filed March 2, 2015, TeleUno response and TPV

- Complainant Llanes explained, “I received a phone call a few months back about a package that needed to be delivered to my house. During the conversation the person . . . started asking very strange questions including my date of birth [and] address, which made me suspicious. . . . In December I received my phone statement indicating that [TeleDias] was my new long distance carrier. I called and requested the recording and to my surprise I hear my voice during the conversation about delivering this package at home. They used portions of this conversation.”⁴³
- Complainant Vicens, an AT&T manager, was slammed by TeleDias, despite a PIC freeze on her account. She recalled that they “were getting . . . calls from a number in Texas telling us there was a package that the post office could not deliver. . . . My Spanish was not sufficient so I had my husband speak to them. . . . My husband told them to stop calling . . .” After Ms. Vicens discovered that TeleDias had switched her carrier, TeleDias told her “they had permission to move the service from L[] Vicens My husband did not give them permission, so they must have recorded something out of context in his discussion telling them to stop calling.”⁴⁴
- Complainant Arvizu explained that before she was slammed, she received a telephone call about a FedEx package delivery. Ms. Arvizu responded to the caller’s questions about her address, but when she was asked her date of birth she said, “No. It is completely inappropriate.”⁴⁵ OneLink inserted her short responses to the questions about her address into the TPV, as well as her statement: “No. It is completely inappropriate.”⁴⁶
- Complainant Cuevas received a telemarketing call from OneLink, claiming that she had a package at the “Lynwood Post office” with a “tracking number, 111880,” that was suspiciously like a fake birthdate for a TPV.⁴⁷ The OneLink telemarketer asked her “to repeat [the number] several times.”⁴⁸
- Complainant Alonso explained that his “mother simply answered questions regarding an ‘undelivered USPS package’ to some lady on the phone and they apparently took those responses and injected them into some type of verbal agreement to switch [carriers to TeleUno]. Please note that my parents are 89 and 91 therefore this is a crime against the elderly.”⁴⁹
- Complainant Pelaez described a call from OneLink: “They called the house . . . and spoke with my mom. . . . They told her there was a package at the post office but they could not bring it to the house because there was a problem with the address. . . . [T]hey asked her if her address was [] and she said yes. Then they asked her for her name and she said [] and after they asked for her date of birth. She then asked the man why they needed her date of birth and the man hung up on

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submitted March 9, 2015).

⁴³ Complaint from M. Llanes (not in Appendix, complaint filed January 14, 2015, TeleDias response and TPV submitted February 12, 2015).

⁴⁴ Complaint from C. Vicens (not in Appendix, complaint filed July 21, 2014, TeleDias response and TPV submitted September 3, 2014).

⁴⁵ Complaint from J. Arvizu.

⁴⁶ *Id.* Ms. Arvizu, who listened to the TPV provided by OneLink, stated that the person speaking in the recording spoke so rapidly that it was “all but impossible to understand anything except the occasional word.” *Id.*

⁴⁷ Complaint from C. Cuevas. Ms. Cuevas’ birthdate is not November 18, 1980.

⁴⁸ *Id.*

⁴⁹ Complaint from C. Alonso.

her. After that call . . . my long distance plan changed from \$18 a month to over \$100.”⁵⁰

- Complainant Martin, after listening to the OneLink TPV, stated that his words inserted into the recording were from a “conversation I had on the phone . . . [with] ‘Federal Express’ concerning their problem with delivering a package. The entire conversation seemed unusual as we live in an established neighborhood with house numbers displayed on all homes. The most unusual thing was when they asked for my DOB. Never was the subject of long distance discussed. None of the conversation in the recording was from the phone call I had with them only the ‘yes’ answers inserted after their questions, my refusal to state DOB and ‘Martin’ inserted after their questions concerning my mother’s maiden name.”⁵¹
- Complainant Hernandez-Diaz De Villegas, who was slammed by TeleUno, received a call from a person who “told me I had a package in the USPS office that needed to be picked up. It was in my husband’s name. She proceeded to ask me for my name, and I only told her Gloria [although I go by my maiden name, Hernandez, not my husband’s last name, Diaz De Villegas]. She then asked me my birthdate so that I could pick up the package for my husband.”⁵² TeleUno claimed that the service “was authorized by Gloria Villegas.”⁵³
- Complainant Franco explained: “[My wife] answered a call from [the OneLink telemarketer] who said she was from the Post Office and they had some important documents for me from the Social Security Administration.”⁵⁴
- Complainant Roy-Franco stated that “the [TeleDias] customer service rep said my husband R[] authorized the service on June 23rd. He did not. How do I prevent this from happening again? Will the company be held accountable for their fraud?”⁵⁵ After listening to the TPV, she explained that the TPV recording was not the conversation that occurred; the telemarketer had told them that there was “a letter at the post office . . . and they needed his address to send it to him and some other odd questions.”⁵⁶
- Complainant Bequer explained that it was not her voice on the TPV and she also recalled that in April, “I received a phone call from someone claiming to be from the U.S. Postal service claiming they had a letter they tried to deliver and they asked my name. When they asked for my birthdate I knew it was a scam.”⁵⁷
- Complainant Merchan recalled that “I received a call at home from somebody [named] Andres Martinez [and] he said he was calling because I had a package that they have not been able to deliver. [H]e said to write a code 82450 and to call 305 930 3109 and they will tell me where the package was coming from and what it was. He confirmed my address and I said Yes (in Spanish). . . . [The] mail man said that they never call customers . . . this happened [just] before TeleDias . . . took over my long distance service from AT&T without my authorization.”⁵⁸

⁵⁰ Complaint from I. Pelaez.

⁵¹ Complaint from J. Martin.

⁵² Complaint from G. Hernandez-Diaz De Villegas.

⁵³ *Id.*

⁵⁴ Complaint from J. Franco.

⁵⁵ Complaint from M. Roy-Franco.

⁵⁶ *Id.*

⁵⁷ Complaint from E. Bequer.

Other complainants describe receiving a similar apparently fraudulent call from the Companies about delivery of a (nonexistent) package.⁵⁹ In sum, the facts in these complaints, from descriptions of packages that did not exist to dates of birth that bore no relation to the complainants, provide strong indicia that the Companies were engaged in a fraudulent scheme to deceive consumers.

2. The Companies Relied on Fabricated TPVs and Provided Them to the Commission as Evidence of Consumer Authorization

12. In addition to the fake package telemarketing calls, complainants contend that the TPVs the Companies presented as evidence of their authorization to switch carriers were fraudulent. Each complainant adamantly denied that he or she had participated in the conversation portrayed in the recordings or that they had authorized any other person to switch his or her long distance carrier. Instead, the complainants insisted that the Companies' TPV recordings had been falsified. Many also stated that the name of the person giving the "authorization" was no one that they knew⁶⁰ or that the birth date or "mother's maiden name" supplied by the person on the recording was incorrect.⁶¹ For example:

- After listening to the [TeleUno] TPV,⁶² Complainant Cabral wrote that the recording "is definitely not my voice. . . . I live by myself and there is no one else in the house but me. . . . I

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⁵⁸ Complaint from M. Merchan, on behalf of C. Merchan.

⁵⁹ See, e.g., Complaint from A. Hincapie (not in Appendix) (TeleUno telemarketer asked his wife "are you Mariela Hincapie [?] she said YES, the lady said that she had a package in the POST OFFICE, we went there and the clerk said [there was] NOTHING. This is a RIP OFF."); Complaint from M. Lemos (TeleUno telemarketer "called [my father] some weeks earlier posing as FedEx/UPS/USPS, telling him there was a package for him and asking him to confirm his name and address, and then inserted his responses into a different recording. Never once did my father knowingly speak to a Teleuno representative. And never did he authorize that his long-distance plan be changed."); Complaint from M. Marrero (not in Appendix, after TeleUno was served with the complaint, response submitted October 14, 2014) ("They were calling to verify our physical address because the caller had a package for delivery. . . . This happened around the middle of August of 2014. It was not until the telephone bill showed the change in the long distance provider [to TeleUno] that I connected the dots."); Complaint from B. Gonzales (not in Appendix) ("Onelink Communications employee impersonated a federal (U.S. Postal Service) employee to record my voice and fraudulently change my phone plan with AT&T."); Complaint from A. Diaz (received numerous calls from [TeleUno] requesting a name to send something in the mail); Complaint from C. Martinez on behalf of F. Martinez ([the TeleDias telemarketer] "told me that the post office was going to start changing their mail routes For the 1st question I said my name was C[], she then asked for my dob."); Complaint from A. Di Pane ("On October 9th [2015], I received a call on my landline. . . saying they were calling from the Local Post Office and had a package for me, they were trying to confirm some information and then asked me to repeat back some numbers and information. . . . A month later I received my phone bill with the name of this company, TELEUNO for \$5.95.");

⁶⁰ See, e.g., Complaints from A. Alejandro, M. Cabrera (not in Appendix, complaint filed December 4, 2014, TeleDias response and TPV submitted January 13, 2015), B. Carter, A. Gonzalez, R. Barraza, E. Cabral, J. Gonzalez, L. Haro, M. Real-Leflar, M. Marrero (not in Appendix), A. Rivas-Vazquez (not in Appendix), G. Fernandez, J. Martin, M. Garza, T. Quintanilla (not in Appendix, complaint filed November 4, 2014, Cytel response submitted November 24, 2014), M. Aquilar, L. Martinez, and R. Ortiz.

⁶¹ See, e.g., Complaints from M. Castillo (not in Appendix, complaint filed August 22, 2014, TeleDias response filed August 25, 2014), R. Rodriguez (not in Appendix, TeleDias response, after served with the complaint, November 14, 2014), H. Gonzalez, M. Ibarra, J. Lopez, J. Martin, D. Castellanos, M. Castro, M. Garcia (not in Appendix, complaint filed September 11, 2014, TeleUno response submitted September 18, 2014; in its response TeleUno claimed that it could not obtain the TPV), J. Gonzalez, S. Hernandez, J. Morales (explaining that he made up a birthdate during the fake package call, and that wrong birthdate was in the TPV), T. Morales, D. Tejada, P. Rinaldi, J. Vinageras, F. Murillo, I. Cornejo, and R. Ortiz.

⁶² After the Commission's Consumer & Governmental Affairs Bureau (CGB) served TeleUno with the consumer complaint, TeleUno submitted the TPV on August 20, 2015. Bureau staff provided Complainant Cabral with the TPV.

speaking English and Spanish and I would have told them to speak to me in English. . . . There isn't even anyone in my family that has the name [identified in the TPV]. It's a scam and they should not be allowed to be doing this."⁶³

- Complainant Alejandro listened to the TeleDias TPV after he filed his complaint⁶⁴ and wrote that his name in the TPV recording was wrong and, further “any transactions I participate in over the telephone are strictly accomplished in English. More than half the time I couldn't even understand what the lady on the recording was saying! They could have gotten ANYONE to say ‘Si’ to their questions and I guarantee you that the person answering wasn't me.”⁶⁵
- Complainant Fernandez explained that when she saw the unauthorized charges from OneLink, “I spoke to USBI and asked who authorized a change to my long distance service and was told a ‘Gabriela’ called. I said I don't know a ‘Gabriela’ and why didn't they call me to verify a change. They hung up.”⁶⁶
- Complainant A. Gonzalez was told by TeleDias “that a Jose Gonzalez authorized the long distance service. There is no such individual that lives with me NOR do I even know a Jose Gonzalez. I guess they figured it's such a common name that there would be a chance I'd fall for their lie.”⁶⁷
- Complainant J. Garcia said that when she complained about the unauthorized charge from Cytel, Cytel told her that her husband had authorized the carrier change, which was untrue. “At the time this was supposed to have happened, my husband was out of state working. They played a recording of a Hispanic man, but it was not him.”⁶⁸
- Complainant H. Gonzalez stated in his complaint that “TeleDias Communications made an unauthorized change of my long distance carrier.” After listening to the TPV,⁶⁹ Mr. Gonzalez explained verbally that the birthdate on the TPV was wrong and (in writing) that the recording “was not my authorization.”⁷⁰
- Complainant Castro explained that he does not do business over the telephone in Spanish and wrote, after listening to the TPV,⁷¹ that “this [TeleUno] recording is not my authorization, and the birth date they provided was off in day, month, and year. I would also point out that the recording seems [to be] a splicing of two separate conversations, with the male part consisting of one syllable mechanically reproduced several times, exhibiting absolutely no variation in pitch, length, or intonation. Furthermore, there are jarring differences in background sounds between

⁶³ Complaint from E. Cabral.

⁶⁴ After CGB served TeleDias with the consumer complaint, TeleDias submitted the TPV on July 1, 2015. Bureau staff provided Complainant Alejandro with the TPV.

⁶⁵ Complaint from A. Alejandro.

⁶⁶ Complaint from G. Fernandez.

⁶⁷ Complaint from A. Gonzalez.

⁶⁸ Complaint from J. Garcia.

⁶⁹ After CGB served TeleDias with the consumer complaint, TeleDias submitted the TPV on July 1, 2015. Bureau staff provided Complainant H. Gonzalez with the TPV.

⁷⁰ Complaint from H. Gonzalez.

⁷¹ After CGB served TeleUno with the consumer complaint, TeleUno submitted the TPV on August 4, 2015. Bureau staff provided Complainant Castro with the TPV.

the male and female [voices].”⁷²

- Complainant M. Garcia explained that TeleUno played “a tape of me supposedly authorizing this charge but the tape was made up using my voice to say my name and “yes” to the offer of their services. There were two mistakes on the tape that showed it was bogus. The date of the tape was stated as March 13th 2014 and the tape has me stating my mother’s maiden name as ‘Garcia’ which is incorrect.”⁷³
- Complainant J. Gonzalez stated verbally, after listening to the TPV,⁷⁴ that the person TeleUno claims authorized the carrier change does not exist; the name TeleUno created for the TPV is a combination of two different names in his household and the date of birth on the TPV belongs to neither of them, nor to anyone else in his household.⁷⁵
- Complainant Morales asserts in his complaint that “[t]he date they say I provided is not my birthday, so they are making it up. I never consented to change my long distance carrier [to OneLink], and never spoke with this company or gave them my birth date.”⁷⁶
- Complainant Diaz, after listening to the Cytel TPV,⁷⁷ stated: “This call with this man never took place. Though it seems to be my voice saying ‘si’ over and over, I never spoke to anybody authorizing changes to my phone account. I pay [AT&T] for long distance services, and there would be no reason for me to accept another company to duplicate services. . . . This is all made up by them.”⁷⁸
- Complainant Carter, after listening to the TeleDias TPV said,⁷⁹ “That is not me – I do not speak Spanish.”⁸⁰
- Complainant Paz explained in her complaint: “I NEVER authorized this [OneLink] charge.

⁷² Complaint from M. Castro.

⁷³ Complaint from M. Garcia (not in Appendix).

⁷⁴ After CGB served TeleUno with the consumer complaint, TeleUno submitted the TPV on July 27, 2015. Bureau staff provided Complainant J. Gonzalez with the TPV.

⁷⁵ Complaint from J. Gonzalez.

⁷⁶ Complaint from A. Morales.

⁷⁷ After CGB served Cytel with the consumer complaint, Cytel submitted the TPV on May 26, 2015. Bureau staff provided Complainant Diaz with the TPV.

⁷⁸ Complaint from L. Diaz. (Ms. Diaz recalled that “a man called with a similar Columbian accent, and asked me if I was [] Diaz and I said ‘si’ (yes), then [he] may have asked me [another] question and I said ‘si’ . . . then he said that I wouldn’t have phone service until the following morning because they were fixing the phone lines. . . . At no point did he talk about Cytel or changing long distance service.”). *Id.*

⁷⁹ After CGB served TeleDias with the consumer complaint, TeleDias submitted the TPV on April 15, 2015. Bureau staff provided Complainant Carter with the TPV.

⁸⁰ Complaint from B. Carter; *see also* Complaint from M. Garza (explaining that after listening to the Cytel TPV (submitted to the Commission by Cytel on August 19, 2015) she stated she would not have a telephone conversation in Spanish and did not understand the Spanish spoken on the TPV); Complaint from M. Escalante (explaining, after listening to the OneLink TPV (submitted to the Commission by OneLink on August 6, 2015), “I do not believe the voice is mine and I do not carry conversations with telemarketers in Spanish.”); Complaint from M. Martinez (TeleDias TPV was made “using a lady pretending to be his wife speaking Spanish . . . [but] my wife does not speak Spanish.”); Complaint from A. Llano (the TPV was in Spanish but the “cut and paste” responses were in English).

When I contacted ONELINK . . . and AT&T neither were willing to refund all charges. OneLink even went further to play me a recording that was obviously a doctored recording in Spanish and refused to let me speak with a supervisor or manager. . . . I want all of the fraudulent charges reversed!”⁸¹

- Complainant Rinaldi explained in his complaint that his long distance service “was transferred from my long-term provider (AT&T) [to Cytel] without my authority on or about 3/20/15.”⁸² After listening to the TPV,⁸³ Mr. Rinaldi observed that although the voice on the TPV sounded like his wife’s voice, she does not speak in Spanish on the telephone and she “never received this call/responded to these questions. She does recall receiving a call asking questions about health care and making responses to what seemed to be questions confirming her coverage.”⁸⁴ After that call, she “was concerned that someone was trying to commit identity theft.”⁸⁵ In addition, Mr. Rinaldi observed that the “mother’s maiden name” response on the TPV was incorrect.⁸⁶
- Complainant Aguilar observed that Cytel was claiming that the person who authorized the services was Tomas Aguilar and his date of birth was March 12, 1950, but, she explained in her complaint, “[t]here is no one in our household besides my husband and myself. There is no one in our household with that name or anything close to that birthdate and neither my spouse . . . nor myself authorized the service.”⁸⁷ After listening to the TPV,⁸⁸ Ms. Aguilar stated that “[n]either my husband nor myself recognizes the voice in the recording.”⁸⁹
- Complainant L. Martinez explained in his complaint that Cytel was claiming that Pedro Gonzalez authorized the carrier change; however, “there is no Pedro Gonzalez living in our home and . . . we don’t even know a Pedro Gonzalez. So how could a stranger that does not exist verify changes to our phone line. This company seems to be very dishonest and the truth is no one verified anything they just add themselves on to people’s phone lines.”⁹⁰
- Complainant Del Aguila listened to the OneLink TPV⁹¹ and concluded that the recording “is not my voice. There is no Maria in my household. That conversation never took place. It’s uncomfortable and upsetting to know they would make up a recording that never took place.”⁹²
- Complainant L. Gonzalez, after listening to the TeleUno TPV,⁹³ explained “that’s not even the

⁸¹ Complaint from C. Paz (not in Appendix).

⁸² Complaint from P. Rinaldi.

⁸³ After CGB served Cytel with the consumer complaint, Cytel submitted the TPV on May 29, 2015. Bureau staff provided Complainant Rinaldi with the TPV.

⁸⁴ Complaint from P. Rinaldi.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Complaint from M. Aguilar.

⁸⁸ After CGB served Cytel with the consumer complaint, Cytel submitted the TPV on August 19, 2015. Bureau staff provided Complainant Aguilar with the TPV.

⁸⁹ Complaint from M. Aguilar.

⁹⁰ Complaint from L. Martinez.

⁹¹ After CGB served OneLink with the consumer complaint, OneLink submitted the TPV on August 4, 2015. Bureau staff provided Complainant Del Aguila with the TPV.

⁹² Complaint from H. Del Aguila.

correct address. . . . This recording is obviously fake and a total fraud. . . . [I]t's not my voice. I am extremely concerned."⁹⁴

- Complainant Meade stated that “[m]y home phone long distance service was changed to another carrier [TeleDias] without my consent. I was not aware of anything until I received my phone bill from AT&T [with] a long list of charges for long distance service with a company listed as USBL.” After listening to the TPV,⁹⁵ Ms. Meade said, “I think it is pretty obvious that they doctored the original recording [by] inserting ‘yes’ throughout the conversation.”⁹⁶
- Complainant Mondragon Abbot said, after listening to the TeleDias TPV,⁹⁷ “I do not recognize this as being my voice, . . . nor do I recognize the voice of the woman speaking Spanish, nor did I ever have . . . this conversation . . . nor do I understand everything that has been said in Spanish on this recording. . . . Please, it is time for you to protect the elderly and disabled from con-artists.”⁹⁸
- Complainant R. Ortiz, after listening to the TeleUno TPV,⁹⁹ said “I do not know anyone by the name of Pedro and no one other than me personally answers the phone in my house. Further, my date of birth is not 04/04/1959.”¹⁰⁰
- Complainant Merchan called TeleDias to complain about the carrier change that occurred on April 21, 2015 and she was told that E. Merchan “had made the change. I told them she was my mother and she [has been] dead since 11/12/14 at the age of 94.” After TeleDias played the TPV for her, she stated “this is a fraud. I do not recognize the voice and the date of birth is not right.”¹⁰¹
- Complainant Ducoffe called TeleUno customer service at 800 240-1109 to complain about unauthorized charges and to ask for a refund. After listening to the TPV, Complainant Ducoffe explained, “The audio is my voice as recorded after I called to complain that TeleUno was billing me for services I did not request and asked for a refund. In order to process their refund, TeleUno required me to confirm my information by voice. [TeleUno created the recording] [b]y splicing my voice confirmations during that call into their ‘authorization’ recording. . . . Evidence of this fraud can be heard in the recording provided at the 44 sec point where I clearly state ‘no, you don’t need to know that’ in response to one of TeleUno’s questions.”¹⁰²

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⁹³ After CGB served TeleUno with the consumer complaint, TeleUno submitted the TPV on October 6, 2015. Bureau staff provided Complainant L. Gonzalez with the TPV.

⁹⁴ Complaint from L. Gonzalez.

⁹⁵ After CGB served TeleDias with the consumer complaint, TeleDias submitted the TPV on May 20, 2015. Bureau staff provided Complainant Meade with the TPV.

⁹⁶ Complaint from J. Meade.

⁹⁷ After CGB served TeleDias with the consumer complaint, TeleDias submitted the TPV on October 12, 2015. Bureau staff provided Complainant Mondragon Abbott with the TPV.

⁹⁸ Complaint from A. Mondragon Abbott.

⁹⁹ After CGB served TeleDias with the consumer complaint, TeleDias submitted the TPV on October 15, 2015. Bureau staff provided Complainant Ortiz with the TPV.

¹⁰⁰ Complaint from R. Ortiz.

¹⁰¹ Complaint from M. Merchan, on behalf of C. Merchan.

¹⁰² Complaint from T. Ducoffe.

Numerous other complainants state that they did not authorize the Companies to switch their preferred long distance providers, or add unwanted long distance services, and that the TPVs the Companies relied on did not contain genuine authorization to switch providers.¹⁰³ Further, complainants who did not have an opportunity to listen to the TPVs also maintain that they did not authorize the Companies to switch their preferred provider.¹⁰⁴

¹⁰³ See, e.g., Complaint from M. McMillan (not in Appendix, complaint filed September 8, 2014, TeleUno response filed September 12, 2014) (“I did not authorize [Tele Uno] to change my telephone service. . . . I remember a call that asked if I was [M.] McMillan, and I said yes, then they started on some spiel, and I said that I wasn’t interested, and hung up.”); Complaint from B. Velez, on behalf of R. Nunez (TeleUno claims “[M.] Perez authorized the charge. [M.] Perez lives in the same household but is not on the account, is elderly, cannot hear, and does not speak English. This is abuse. I called to get credit but they only agreed to credit two months.”); Complaint from M. Castillo (not in Appendix) (“[TeleDias] is saying that I switched to [their] company but I know for a fact that I did not. I asked for them to play the recording where I switched and the voice is not mine and the date of birth they are saying is not mine. They do not want to refund my money.”); Complaint from M. Cabrera (not in Appendix, complaint filed December 4, 2014, TeleDias response and TPV submitted January 13, 2015) (“When I called USBI to find out who authorized the [TeleDias] charges, they provided me with a bogus name. After I explained that I did not know who that person was and that I did not authorize the charges, they refused to credit me the charges.”); Complaint from T. Quintanilla (not in Appendix) (“Cytel . . . is billing [me] . . . for an unknown service requested by an unknown individual named Marie Rivera. . . .No such person lives at this address. . . . I advised [Cytel] that no person by the name of Marie Rivera resides or has ever resided at my residence and that I have had this telephone number since 2003.”); Complaint from R. Martinez (not in Appendix) (when he called Cytel to complain about the unauthorized charges, they played the TPV for him and “it was someone speaking Spanish very fast and the only voice that was heard was not my wife’s and only said Si and 550”); Complaint from A. Velasquez (Cytel telemarketer called and “ask[ed] who was on the phone [and] they got the name of the person who answer[ed] and when I called to complain they said that that person gave them authorization to change the account.”); Complaint from G. Ortiz, on behalf of C. Garcia (not in Appendix) (“Teledias . . . claims the service switch was authorized by Maria Saldivar . . . I told him no one by that name lives here and I do not know Maria.”); Complaint from M. Roy-Franco (“[T]he [TeleDias] customer service rep said my husband Ramon authorized the service on June 23rd. He did not. How do I prevent this from happening again? Will the company be held accountable for their fraud?”); Complaint from D. Castellanos (the TPV “is something made up from them. She never had this conversation. One of the questions was answered in the incorrect way. Her [mother’s] maiden name is not Castellanos.”); Complaint from M. Real-Leflar (“[S]he did not authorize the switch and she does not know a Maria Real [the person TeleUno claimed authorized the carrier change.]”); Complaint from F. Murillo (“I was deliberately deceived by Teleuno representatives when I was informed that they were not selling me anything.”); Complaint from A.G. Rivas-Vazquez (“[TeleUno] said that someone at my house named Maria Vazquez had authorized the switch Of course there is no one at my house by that name and no one authorized the change.”); Complaint from W. Bregon (not in Appendix) (“[T]hey played back a fabricated phone message claiming my mother authorized the change [to OneLink]. You couldn’t understand the questions, and it was not my mother’s voice replying.”); Complaint from R. Cabrera (not in Appendix) (“I never authorized these [OneLink] charges. When I asked them who authorized, they give me a bogus name which I never heard of.”); Complaint from I. Cornejo (“OneLink told us that J[] Cornejo, my husband, authorized the change. He doesn’t answer the phone because he doesn’t like using it and his English isn’t . . . good.”); Complaint from J. Vinageras (does not recognize voice on the Cytel TPV and “there is a question regarding my mother’s maiden name which answer is incorrect”); Complaint from L. Diaz (“[T]hey [TeleDias] lied about the authorization. . . .This conversation has been clipped and altered.”); Complaint from A. Santiago, on behalf of F. Santiago (after listening to the TPV, “[t]his is not me . . . and not my date of birth.”); Complaint from E. Herrera (after listening to the TPV, “no that absolutely was not me, we do not answer questions over the phone, plus the person talking is going so fast I would certainly not respond. The person also says something about Cumberson Street, we don’t live on that street.”).

¹⁰⁴ See, e.g., Complaint from M. Ibarra (“It is a false date of birth. . . . Also, ATT should never have allowed [TeleDias] to provide services since I never requested their services and did not sign any documentation.”); Complaint from F. Maldonado (“[H]is service was switched [by TeleDias] without his authorization.”); Complaint from F. Yates (“USBI [TeleDias] pirated my long distance. . . . I did NOT authorize this change! . . . I’m not paying for something I did not want, or authorize! Where do I turn to for help when the 3rd party is uncooperative?”); Complaint from B. Aragon (“[H]e had never given authorization for Teleuno to be his long distance carrier and wants an investigation initiated in the matter.”); Complaint from J. Rodriguez, on behalf of S. Rodriguez (“My elderly mother got a call from someone claiming to be with AT&T saying her long distance would be cut off . . . and

13. We find that the Companies have been on notice of consumers' complaints about fake or fraudulent TPV recordings, deception, and misrepresentation for many years.¹⁰⁵ In 2010, the Iowa Office of Consumer Advocate investigated TeleDias for slamming.¹⁰⁶ In that proceeding, the consumer contended "that the voice on the TPV recording sounds a little bit like his wife's voice, but she does not speak whatever language is being spoken in the recording. He also indicated that this wife's first name is not Jane [the person TeleDias claimed authorized the service]."¹⁰⁷ A year later, the Iowa Office of Consumer Advocate investigated Cytel for slamming.¹⁰⁸ The consumer who filed the complaint in the investigation described the "doctored" TPV that Cytel used to switch his carrier:

The first 'yes' in the 'recording' was a response to someone asking my name, but I didn't know who I was talking to. I was merely confirming the fact that I was indeed B[] Johns. The hesitation in the response 'yes' was me trying to figure out who was calling me and what they wanted. . . . [Y]ou can hear how the same hesitation/intonation is used in each of the following 'yes' responses—which are just places where they spliced one original response into multiple locations.¹⁰⁹

The Iowa Cytel Investigation was settled, and the settlement agreement was signed by Carmen Asorey as president of Cytel.¹¹⁰ Despite these earlier investigations involving fake TPVs, the Companies have continued to rely on fake TPVs as described by the complainants in this investigation.¹¹¹

14. We have also reviewed older complaints in this investigation where the complainants describe apparently fake TPVs and misrepresentation. For example, according to Complainant Santiago, "A person called asking for my wife [] Santiago to inform she had a package at the Newberry post office. Since she was not home, they asked me to take note and repeat a number that I had to provide to the post office to pick up the package. Later I discovered that their purpose was to switch my long distance . . . they are targeting people with Spanish surnames."¹¹² Complainant Avino described another fake package delivery call, "The caller had a Spanish accent and stated he was calling for Federal Delivery and had a package for [my son]. He wanted my name and date of birth. . . . TeleDias (USBI) added service to our home service immediately. This is a scam."¹¹³ Similarly, Complainant Ortega was a victim of the

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now TeleUno charges . . . on her phone bill have started appearing."); Complaint from E. Umpierrez (TeleUno telemarketer pretended to be calling from AT&T); Complaint from F. Torres, on behalf of S. Torres ("USBI began cramming their [OneLink] long distance charges on my elderly parent's landline phone with Century Link without permission.").

¹⁰⁵ See, e.g., *Silv NAL*, 25 FCC Rcd at 5181–82, paras. 6–7 (finding the carrier on notice of a problem with its third-party telemarketers based on complaints the carrier received from consumers).

¹⁰⁶ See Office of Consumer Advocate v. TeleDias Communications, Inc., Order Approving Settlement and Assessing Civil Penalty, Docket No. C-2010-0080, at Bates Nos. TeleDias-0004375—0004379 (Iowa Utils. Bd. filed Dec. 9, 2010) (Iowa TeleDias Investigation).

¹⁰⁷ *Id.* at Bates No. TeleDias-0004376.

¹⁰⁸ See Office of Consumer Advocate v. Cytel, Inc., Petition for Proceeding to Consider Civil Penalty, Docket No. FCU-2011-0018, at Bates Nos. Cytel-0001750-0001755 (Iowa Utils. Bd. filed June 23, 2011) (Iowa Cytel Investigation).

¹⁰⁹ *Id.* at Bates No. Cytel-0001751.

¹¹⁰ Ms. Asorey was served with a copy of the agreement, as were her attorneys, Charles E. Helein and Jane L. Wagner.

¹¹¹ See *Preferred Forfeiture Order* at para. 26 ("The Company has been on notice of such misrepresentations and cannot continue to claim that it was unaware of its telemarketers' misrepresentations or that such misrepresentations are outside the scope of its contracts.").

¹¹² Complaint from J. Santiago (not in Appendix). TeleUno was served with the complaint and submitted a response and TPV on April 30, 2014.

package scam, “my husband, [] Ortega, receive a phone call informing that he needs to pick up a package at our local post office and was given a confirmation # for that package. He was asked numerous personal questions including birthday to which he never answered and hung up. On 4/19 [14], we . . . found out we were slammed.”¹¹⁴ Complainant Portela, another slamming complainant, observed, after TeleUno played the TPV for him, that the recording “was of a woman who claimed to be my wife but the customer in the recording sounding nothing like my wife. Even the accent was different (Central/South American and my wife is of Caribbean descent).”¹¹⁵ Complainant Dominguez, after listening to the OneLink TPV, explained that “OneLink is saying that ‘Maria Rosado’ authorized the [carrier] change but I do not know any person named ‘Maria Rosado’ and when I listened to the recording that sound[ed] very fake. That recording sound[ed] like it was made up with pieces of someone answering ‘yes.’ . . . Please investigate this, this is fake, fraud.”¹¹⁶ Complainant Laurel stated that the OneLink telemarketer “told me she was from AT&T and . . . there was a problem with my line. . . .She never said anything about switching long distance provider or [that] she was from OneLink Communications.”¹¹⁷ Complainant Montemayor, after listening to the TPV, said “The audio file appears to be a fake—the person answering yes to the questions is not me and the birthday referenced is definitely not mine.”¹¹⁸

15. We conclude, based on the TPVs we have reviewed and the position of the complainants who have heard the TPVs, that all of the TPV recordings the Companies supplied to show that consumers whose complaints are listed in the Appendix authorized service were apparently fabricated. These unauthorized charges and carrier changes were not mere errors by OneLink, TeleDias, TeleUno, and Cytel, whereby the Companies mistakenly verified the carrier switch with someone who was not authorized to make the switch, but were intentional, longstanding misconduct by the Companies or their agents that continued after the Bureau initiated its investigation of the Companies.¹¹⁹ There is no evidence in the record that any of the complainants (or anyone else in their households) agreed to change carriers.¹²⁰ Nevertheless, the Companies presented these apparently fabricated audio recordings to the FCC¹²¹ as a defense to charges that the Companies violated Section 258 of the Act.¹²²

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¹¹³ Complaint from S. Avino (not in Appendix). TeleDias was served with the complaint and submitted a response and TPV on June 16, 2014.

¹¹⁴ Complaint from M. Ortega (not in Appendix). TeleDias was served with the complaint and submitted a response on June 17, 2014.

¹¹⁵ Complaint from A. Portela (not in Appendix). TeleUno was served with the complaint and submitted a response and TPV on June 25, 2014.

¹¹⁶ Complaint from C. Dominguez (not in Appendix). OneLink was served with the complaint and submitted a response and TPV on August 20, 2014.

¹¹⁷ Complaint from L. Laurel (not in Appendix). OneLink was served with the complaint and submitted a response on June 16, 2014.

¹¹⁸ Complaint from D. Montemayor (not in Appendix). TeleDias was served with the complaint and submitted a response on September 2, 2014.

¹¹⁹ The Bureau issued subpoenas to the Companies on June 8, 2015; most of the complaints listed in the Appendix arise from slams and crams that occurred after that date.

¹²⁰ In support of its claim that “regulatory compliance is, and always has been, a cornerstone of the Companies’ business model,” OneLink contends that its billing aggregator “has implemented rigorous verification procedures.” OneLink Response at 5.

¹²¹ The Companies provided TPVs to CGB in response to slamming complaints CGB had forwarded to the Companies. The dates the TPVs were submitted are listed in the Appendix.

¹²² The Companies stated that they use an independent third party verification company, Datasec-Team, to verify and record each customer’s authorization. OneLink Response at 35. While it is unclear who actually created the fake authorizations for each complainant, the Companies affirmatively relied on these recordings to show that they had authorization to charge consumers for service. The Companies continued to do so even after they were on notice of the apparently fake TPVs due to numerous complaints over the course of several years from consumers

16. We therefore find the Companies in apparent violation of Section 201(b) of the Act, for engaging in deceptive and fraudulent practices by misrepresenting their identity when calling consumers and submitting apparently fake TPV recordings to the Commission to show consumer authorization of a carrier change when in fact there was none.¹²³ Licensees and other Commission regulatees are responsible for the acts and omissions of their employees and independent contractors.¹²⁴ Under Section 217 of the Act,¹²⁵ carriers are liable for the acts of their agents, including their telemarketers and third-party verifiers. Thus, as carriers, the Companies are responsible for the conduct of third parties acting on their behalf, including third-party marketers.¹²⁶ Further, the Companies have been on notice of such misrepresentations and cannot claim that they were unaware of its telemarketers' and verifiers' misrepresentations.¹²⁷ Accordingly, to the extent that the deceptive practices and other acts were carried out by the Companies' telemarketers or third-party verifiers, we find the Companies engaged in unjust and unreasonable practices with respect to the slamming and cramming complaints listed in the Appendix, in apparent violation of Section 201(b) of the Act.

B. The Companies Provided False and Misleading Material Information to the Commission in Apparent Violation of Section 1.17 of the Commission's Rules

17. We find that the Companies also apparently violated Section 1.17 of the Rules when they submitted to the Commission the fabricated TPVs discussed above. Section 1.17(a)(2) of the Rules provides that no person may provide to the Commission, in any written statement of fact related to an investigatory matter, "material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading."¹²⁸ This requirement is intended in part to enhance the effectiveness of the Commission's enforcement efforts.¹²⁹ Thus, even absent intent to deceive, a false statement may constitute a violation of Section 1.17 if provided without a reasonable basis for believing that the information is truthful and not misleading.¹³⁰

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who alleged they had never heard of the Companies and had not authorized any of their services. *See, e.g., Silv NAL*, 25 FCC Rcd at 5181–82, paras. 6–7 (finding the carrier on notice of misrepresentations by third-party telemarketers based on complaints the carrier received from consumers over a period of many months).

¹²³ As discussed *infra* para. 28, under the circumstances here we do not propose a separate forfeiture for the Companies' fabricated recordings. Rather, the proposed forfeiture is based on the slams and crams.

¹²⁴ *Preferred Forfeiture Order* at para. 26, citing, *inter alia, Eure Family Ltd. P'ship*, Memorandum Opinion and Order, 17 FCC Rcd 21861, 21863–64, para. 7 (2002).

¹²⁵ *See* 47 U.S.C. § 217 ("[T]he act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or user, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or user as well as that of the person."); *Preferred Forfeiture Order* at para. 26 (finding carrier apparently liable for deceptive marketing practices of its third party telemarketers); *Silv NAL*, 25 FCC Rcd at 5185, para. 14 (same).

¹²⁶ *See Preferred Forfeiture Order* at para. 26.

¹²⁷ *See id.* In at least one instance, the fabricated recording was apparently made from the complainant's call to the TeleUno customer service number after the slam occurred, i.e., by TeleUno employees. *See* Complaint from T. Ducoffe.

¹²⁸ 47 CFR § 1.17(a)(2).

¹²⁹ *See Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4016, 4021, paras. 1–2, 12 (2003) (*Amendment of Section 1.17*).

¹³⁰ *See Amendment of Section 1.17*, 18 FCC Rcd at 4017, para. 4 (stating that the revision to Section 1.17 is intended to "prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive"); *id.* at 4021, para. 12.

18. In response to both the consumer complaints that CGB forwarded to the Companies and the Bureau's subpoenas, the Companies submitted letters accompanied by the apparently fake TPVs; these letters asserted that the TPVs "verified a valid authorization" to switch a consumer's carrier. The Companies made these assertions despite having received numerous prior complaints from consumers who said they had never heard of the Companies and did not authorize their service.¹³¹ As we stated explicitly in the *Amendment of Section 1.17*, parties must "use due diligence in providing information that is correct and not misleading to the Commission."¹³² This includes taking appropriate steps to determine the truthfulness of what is being submitted.¹³³ The Companies failed to do so. Accordingly, we find that the Companies lacked a reasonable basis for believing that the TPVs were valid, and that in providing them to the Commission, along with letters attesting to their validity, they apparently violated Section 1.17(a)(2).¹³⁴

C. The Companies Submitted Unauthorized Requests to Switch Consumers' Long Distance Carriers in Apparent Violation of Section 258 of the Act and Section 64.1120 of the Rules

19. The Companies apparently violated Section 258 of the Act and Section 64.1120 of the Rules by submitting requests to change consumers' long distance carriers without authorization. Section 258 makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe."¹³⁵ Section 64.1120 of the Rules prohibits carriers from submitting a request to change a consumer's preferred provider of telecommunications services before obtaining authorization from the consumer; carriers can verify that authorization in one of three specified ways, one of which is TPV.¹³⁶ If a carrier relies on TPV, as the Companies do, the independent verifiers must, among other things, confirm that the consumers with whom they are speaking: (i) have the authority to change the carrier associated with their telephone number; (ii) in fact wish to change carriers; and (iii) understand that they are authorizing a carrier change.¹³⁷

20. As discussed above, the evidence shows that the Companies' TPV recordings were apparently fabricated to mislead regulatory officials into believing that the Companies had verified the consumer's authorization, when in fact they had not followed any of the Commission's verification procedures set forth in Section 64.1120(c).¹³⁸ The Companies have failed to produce clear and convincing evidence¹³⁹ that they complied with the Commission's verification procedures prior to submitting or

¹³¹ See *supra* paras. 10-13.

¹³² *Id.*

¹³³ See *GPSPS NAL*, 30 FCC Rcd at 2527, para. 12.

¹³⁴ The complaints to which the Companies responded with false material information, and which involve violations that took place within the last 12 months, are listed in the Appendix. The number of such Section 1.17 violations for each carrier, as listed in the Appendix, are: OneLink-19, TeleDias-16, TeleUno-20, Cytel-7, a total of 62.

¹³⁵ 47 U.S.C. § 258(a).

¹³⁶ 47 CFR § 64.1120(c)(1)–(3). A carrier's other two options to verify authorization are to obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 or to obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically. *Id.*

¹³⁷ *Id.* § 64.1120(c)(3)(iii).

¹³⁸ See *id.* § 64.1120(c).

¹³⁹ The Commission's rules require that any proof of verification of a carrier change must contain clear and convincing evidence of a valid authorized carrier change and that the Commission or state commission will determine whether an unauthorized change has occurred using such proof and any evidence supplied by the

executing a request to switch the Complainants' long distance carriers.¹⁴⁰ We therefore find that the Companies apparently violated Section 258 of the Act and Section 64.1120 of the Rules by submitting requests to switch 84 consumers' preferred providers of telecommunications services without proper authorization verified in accordance with the Rules.¹⁴¹

D. The Companies Placed Unauthorized Charges on Consumers' Telephone Bills in Apparent Violation of Section 201(b) (Cramming)

21. Section 201(b) of the Act makes it unlawful for a carrier to engage in any practice in connection with its provision of a telecommunications service that is unjust and unreasonable.¹⁴² The Commission has found that the placement of unauthorized charges and fees on consumers' telephone bills—a practice commonly known as “cramming”—is an “unjust and unreasonable” practice under Section 201(b).¹⁴³ Cramming can occur when third parties place unauthorized charges on consumers' local telephone bills or when carriers place unauthorized charges on the telephone bills of their own customers. In either case, “any assessment of an unauthorized charge on a telephone bill or for a telecommunications service is an ‘unjust and unreasonable’ practice under Section 201(b) of the Act.”¹⁴⁴

22. As noted above, the Companies switched complainants' long distance carrier in some cases and in others they did not.¹⁴⁵ Either way, the Companies billed the consumers for long distance service by placing charges and monthly fees on their local telephone bills. All of the consumers whose complaints the Bureau reviewed maintain that whether or not the Companies switched their carrier, they neither requested nor agreed to the Companies' services. For example,

- Complainant White, who received long distance service from CenturyLink, stated that “Century Link [is] charging me on behalf of USBI for services I never authorized or even heard of and [is] refusing to remove the charge.”¹⁴⁶ Mr. White added, “[t]hese people are criminal. I bet there are plenty of people who do not read their bills and fail to notice these bogus charges.”¹⁴⁷

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subscriber. See 47 CFR § 64.1150(d).

¹⁴⁰ See *United American Technologies, Complaint Regarding Unauthorized Change of Subscriber's Telecommunications Carrier*, Order, 23 FCC Rcd 6631, 6633, para. 4 (CGB 2008) (finding that because TPV submitted by carrier had been altered, the carrier failed to produce clear and convincing evidence that complainant authorized a carrier change).

¹⁴¹ The 84 apparent slamming violations are listed in the Appendix: OneLink-23, TeleDias-24, TeleUno-28, Cytel-9.

¹⁴² 47 U.S.C. § 201(b).

¹⁴³ See *Long Distance Direct, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 3297, 3302, para. 14 (2000) (*LDDI MO&O*) (“LDDI’s inclusion of ‘membership’ and ‘other’ fees on Complainants’ telephone bills was an ‘unjust and unreasonable’ practice because the fees were unauthorized.”); *Central NAL*, 29 FCC Rcd at 5523, para. 14; *USTLD NAL*, 29 FCC Rcd at 829–30, para. 14; *CTI NAL*, 28 FCC Rcd at 17202, para. 15; *Advantage NAL*, 28 FCC Rcd at 6849–50, para. 17.

¹⁴⁴ See, e.g., *Central NAL*, 29 FCC Rcd at 5523, para. 14.

¹⁴⁵ In some cases, the complainant did not have a preferred IXC to “change,” and in other cases it appears the LEC did not switch the consumer’s carrier because he or she had a PIC freeze.

¹⁴⁶ Complaint from B. White.

¹⁴⁷ *Id.*

- Complainant Umpierrez explained, “[w]ithout my authorization a third party, USBI, engaged Teleuno, Inc. to provide me with long distance services. I called Teleuno and I am supposed to receive a credit for their ‘unauthorized’ service charges. This is apparently a common modus operandi of this company.”¹⁴⁸
- Complainant Jaser, on behalf of M. Sanchez, states, “I received a current statement from my phone company AT&T with additional and fraudulent charges from a different phone company known as USBI and TELEUNO, INC. I have NEVER authorized verbally or done any kind of business with USBI and TELEUNO. I have never signed any kind of documentation with USBI and TELEUNO.”¹⁴⁹
- Complainant Castaneda, on behalf of R. Montejó, explains that “two different companies have added themselves without authorization as long distance providers and have billed my ATT account thru USBI.”¹⁵⁰
- Complainant Cunningham states that “until May 2015 our home and long-distance service was provided by CenturyLink. Since cancelling our CenturyLink account, we have twice received bills from CenturyLink for \$6.37 from a company called Teledias.”¹⁵¹

23. Further evidence that complainants did not authorize the Companies’ service is the fact that the Companies billed telephone lines that were not even used for telephone service. For example, Complainant Carter, a CenturyLink customer, stated “[I] don’t actually have a phone number – I just have internet but my account number is a phone number. When I contacted [TeleDias] they were very obstinate, telling me that some other name had authorized the charge. They eventually hung up on me after saying they would try to cancel the charge.”¹⁵² Complainant Ontiveros similarly explained:

I called the company USBI directly [about the OneLink unauthorized charges] and they told me that we had authorized the changes to our phone bill [T]he person that made the authorization was not even a person we know, her name was Maria Ontiveros. I knew it was fraud . . . because . . . we don’t even own a home phone, we do have the service just to have our internet but we don’t even have a phone to connect to the land line.¹⁵³

24. Complainant Menendez stated that she also had no need for TeleUno’s long distance service because her landline telephone was for her home security system only and she used her cell phone for all long distance calls.¹⁵⁴ Similarly, Complainant Munoz explained: “My line is an alarm line therefore we do not make any calls. We did not authorize the [TeleDias] charges.”¹⁵⁵ Complainant Galtes, an AT&T customer, explained that he “only had local service with AT&T. The only purpose of this line was to be used with an alarm system. . . . We never requested or authorized [OneLink service.]”¹⁵⁶

¹⁴⁸ Complaint from E. Umpierrez.

¹⁴⁹ Complaint from B. Jaser, on behalf of M. Sanchez (not in Appendix, complaint filed February 20, 2015, TeleUno response and TPV submitted March 2, 2015).

¹⁵⁰ Complaint from R. Castaneda, on behalf of R. Montejó (not in Appendix, complaint filed November 17, 2015, OneLink response and TPV submitted March 27, 2015).

¹⁵¹ Complaint from S. Cunningham.

¹⁵² Complaint from B. Carter.

¹⁵³ Complaint from F. Ontiveros (not in Appendix).

¹⁵⁴ Complaint from I. Menendez.

¹⁵⁵ Complaint from J. Munoz, on behalf of M. Garduno.

¹⁵⁶ Complaint from I. Galtes (not in Appendix).

25. Other complainants had specifically chosen not to have a presubscribed long distance carrier because they do not use their landline telephone for their long distance calls.¹⁵⁷ Some complainants state that they had a long distance block and could not even make long distance calls¹⁵⁸ or had a block for any third party charges.¹⁵⁹ Many complainants had service plans with their carriers that included “unlimited long distance” and had no reason to have another long distance carrier added to their telephone bill.¹⁶⁰

26. As we have said previously, a carrier that engages in an initial slam that leads to a subsequent cram violates both Sections 258 and 201(b) of the Act for slamming and cramming¹⁶¹ and we can assess a forfeiture for either or both violations that are within the statute of limitations.¹⁶² The record shows that the complainants did not request, sign up for, or authorize the Companies’ services and yet Companies billed them for service, even in cases where they did not seek to switch the consumers’ carrier. Accordingly, we find that the Companies apparently violated Section 201(b) of the Act for the unauthorized charges it placed on 58 consumers’ telephone bills.¹⁶³

E. Proposed Forfeiture

27. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission.”¹⁶⁴ Here, Section 503(b)(2)(B) of the Act empowers the

¹⁵⁷ See, e.g., Complaint from M. Aguilar (Cytel cram); Complaint from M. Galarza, on behalf of E. Ortega (Cytel cram); Complaint from J. Roberts, on behalf of A. Monteiga (Cytel cram); Complaint from P. Lamas (TeleUno cram); Complaint from I. Mendez (TeleUno cram); Complaint from I. Menendez (TeleUno cram); Complaint from B. Martin (TeleDias cram); Complaint from M. Castro (TeleUno cram); Complaint from C. Garcia on behalf of I. Baeza (OneLink cram); Complaint from E. Bequer (TeleUno cram); Complaint from P. Castillo (TeleUno cram); Complaint from J. Vinageras (Cytel cram); Complaint from T. Gamba (OneLink cram).

¹⁵⁸ See, e.g., Complaint from M. Garza (“I had a long distance block from my local phone company so I cannot even have a long distance carrier.”).

¹⁵⁹ See, e.g., Complaint from M. Wong (not in Appendix) (“[T]his is the second time I have a cramming charge on this account and had already ordered previously a block on third party charges.”).

¹⁶⁰ See, e.g., Complaint from J. Lopez (“I have a plan with AT&T with unlimited long distance. I was quite surprised to see a charge from another long distance carrier, USBI [billing for TeleDias] on my AT&T bill.”); Complaint from F. Cadena (“I have free long distance calling from CenturyLink.”); Complaint from W. Marin, on behalf of O. Medina (“My long distance carrier with AT&T (unlimited Nationwide) was changed to USBI/Teledias Communications, Inc. without consent or permission of the account holder.”); Complaint from N. Morlan (not in Appendix, complaint filed February 3, 2015, OneLink response submitted February 5, 2015) (explaining that she “has free LD with CenturyLink and now finds herself being billed for LD from OneLink. Customer has not authorized the change, nor requested these services”); Complaint from E. Liste (“I am [an] AT&T employee and I get an employee discount in my phone bill so my question is: [Why would] I need to use another expensive company?”); Complaint from A. Llano (retired BellSouth employee would not make “changes to her phone bill because she doesn’t want to lose any of the concessions she receives.”); Complaint from F. Ramirez (“AT&T was not charging me anything for LD calls within the U.S. and . . . only ten cents per minute [for calls to Mexico].”); Complaint from F. Huerta (questioning why he would agree to pay two companies for his long distance service).

¹⁶¹ See *Optic NAL*, 29 FCC Rcd at 9063, para. 19, *aff’d*, Forfeiture Order, 30 FCC Rcd 2539 (2015); see also *Central NAL*, 29 FCC Rcd at 5529, para. 25 n.83 (asserting Commission authority to assess forfeitures for both Section 201(b) and Section 258 violations); *USTLD NAL*, 29 FCC Rcd at 835, para. 24 n.93 (same); *CTI NAL*, 28 FCC Rcd at 17208, para. 26 n.78 (same). As discussed in more detail below, we conclude that assessing a forfeiture for each slamming violation that occurred within the last 12 months is sufficient to protect consumers and deter future violations of the Act and we do not assess an additional forfeiture for the subsequent cram. See *infra* para. 27.

¹⁶² See *Optic NAL*, 29 FCC Rcd at 9063, para. 19.

¹⁶³ The 58 cramming violations, as listed in the Appendix, are: OneLink-13; TeleDias-13; TeleUno-20; Cytel-12.

¹⁶⁴ See 47 U.S.C. § 503(b).

Commission to assess a forfeiture against the Companies of up to a statutory maximum of \$160,000 for a single act or failure to act.¹⁶⁵ In exercising our forfeiture authority, we must consider “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹⁶⁶ In addition, the Commission has established forfeiture guidelines, which set forth base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.¹⁶⁷ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.¹⁶⁸

28. Section 1.80(b) of the Rules sets a base forfeiture amount of \$40,000 for violations of our slamming rules and orders.¹⁶⁹ Although the forfeiture guidelines provide no base forfeiture for cramming, the Commission has similarly established a \$40,000 base forfeiture for cramming violations.¹⁷⁰ As discussed above, the Commission can assess separate forfeitures for a slam and for any unauthorized charges that result from the unlawful carrier switch. Under the circumstances here, we believe assessing a forfeiture for each slamming violation that occurred within the last 12 months is sufficient to protect consumers and deter future violations of the Act and does not necessitate our assessing an additional forfeiture for the subsequent cram. In those cases, however, where the Companies submitted the unlawful carrier change request more than a year prior to the date of this NAL or where the Companies did not complete a carrier switch, we assess a forfeiture not for the slam, but for the unauthorized charges the Companies placed on the consumers’ telephone bills that occurred within the last 12 months from the date of this NAL.¹⁷¹ Applying the \$40,000 base forfeiture to each of the 142 slamming and cramming

¹⁶⁵ See *id.* § 503(b)(2)(B); see also 47 CFR § 1.80(b)(2). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) of the Act (\$100,000 per violation or per day of a continuing violation and \$1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001 (identify subsection(s)), 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, 28 FCC Rcd 10785, 10786-790, paras. 3-5 (Enf. Bur. 2013); see also *Inflation Adjustment of Maximum Forfeiture Penalties*, 78 Fed. Reg. 49370-01, 49370 (2013) (setting September 13, 2013, as the effective date for the increases). However, because the DCIA specifies that any inflationary adjustment “shall apply only to violations which occur after the date the increase takes effect,” we apply the forfeiture penalties in effect at the time the violation took place. 28 U.S.C. § 2461 note (6). Here, because the apparent violations at issue occurred after September 13, 2013, the applicable maximum penalties are based on the Commission’s most recent inflation adjustment, i.e., \$160,000.

¹⁶⁶ See 47 U.S.C. § 503(b)(2)(E).

¹⁶⁷ 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

¹⁶⁸ *Id.*

¹⁶⁹ See *id.* § 1.80, Appendix A, Section I; see also 47 U.S.C. § 503(b)(2)(E); *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17100-01, para. 27 (1997).

¹⁷⁰ See *LDDI MO&O*, 15 FCC Rcd at 3304, para. 19 (affirming, “by analogy to the standard forfeiture for slamming provided by the *Forfeiture Policy Statement*,” that “\$40,000 is an appropriate forfeiture” for “each cramming violation”).

¹⁷¹ The consumers whom the Companies crammed after it initially slammed them include the following: M. Lemos, on behalf of J. Guenaga; B. Velez, on behalf of R. Nunez; M. Wong; R. Diaz (not in Appendix, complaint filed March 4, 2015, OneLink response and TPV submitted March 5, 2015); R. Castaneda, on behalf of R. Montego (not in Appendix, complaint filed November 17, 2015, OneLink response and TPV submitted March 27, 2015); C. Paz (not in Appendix); M. Ramirez; Y. Ruiz de Castilla, on behalf of T. Ruiz de Castilla; T. Joseph; T. Loebach; S. Cunningham; D. Leal; A. Flores.

violations that occurred within the last 12 months¹⁷² results in a proposed forfeiture of \$1,440,000 (OneLink), \$1,920,000 (TeleUno), \$1,480,000 (TeleDias), and \$840,000 (Cytel).

29. The Commission's forfeiture guidelines provide that the base forfeiture amount for misrepresentation or lack of candor is the statutory maximum,¹⁷³ or, in this case, \$160,000 for a single violation up to \$1,575,000 for a continuing violation.¹⁷⁴ Considering the circumstances of this case, we find that the base forfeiture is warranted for the Companies' willful violations of Section 1.17. The Commission has stated that it relies heavily on the truthfulness and accuracy of the information provided to it: "If information submitted to us is incorrect, we cannot properly carry out our statutory responsibilities."¹⁷⁵ Here, the Companies provided the Commission with 62 TPV recordings filed in response to consumer complaints that were apparently fabricated, thus hampering our ability to properly enforce the carrier change rules. Therefore, applying the base forfeiture of \$160,000 to the 62 instances when the Companies provided false material information to the Commission within the last 12 months results in a proposed forfeiture of \$9,920,000.¹⁷⁶ In addition, the Companies provided numerous apparently fabricated TPVs with their subpoena responses, an additional four violations if we consider each subpoena response to be one violation. Adding those four additional violations results in a total of \$10,560,000 for the 66 Section 1.17 violations.¹⁷⁷

30. Under Section 503 and our forfeiture guidelines, we must take into account the egregious and repeated nature of the Companies' actions, as well as the substantial harm that they caused consumers. As discussed above, many complainants contend that the Companies' telemarketer pretended that he or she was calling from the U.S. Post Office and one complainant was even told that "the Post Office . . . had some important documents . . . from the Social Security Administration."¹⁷⁸ Before discovering the unauthorized charges from the Companies on their telephone bills, the complainants had never heard of the Companies. The apparently fake TPV recordings and the misrepresentations all

¹⁷² The total number of slam and cram violations, 142, are listed in the Appendix: OneLink-36, TeleDias-37, TeleUno-48, Cytel-21.

¹⁷³ 47 CFR § 1.80, Note to Paragraph (b)(8); *Forfeiture Policy Statement*, 12 FCC Rcd at 17113, Section I, *Base Amounts for Section 503 Forfeitures*.

¹⁷⁴ See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(2).

¹⁷⁵ *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Notice of Proposed Rulemaking, 17 FCC Rcd 3296, 3297, para. 3 (2002).

¹⁷⁶ The instances of apparent violations of Section 1.17 are identified in the Appendix. The total of \$9,920,000 is as follows: OneLink (\$3,040,000), TeleDias (\$2,560,000), TeleUno (\$3,200,000), and Cytel (\$1,120,000).

¹⁷⁷ The total of \$10,560,000 is as follows: OneLink (\$3,200,000), TeleDias (\$2,720,000), TeleUno (\$3,360,000), and Cytel (\$1,280,000).

¹⁷⁸ Complaint from J. Franco. Other complainants describe "spoofed" telephone numbers on the telemarketers' calls. See, e.g., Complaint from L. Cuellar (received a call from Cytel's telemarketer on July 6, 2015, that appeared to be from (303) 814-6932, the number belonging to the U.S. Post Office in Castle Rock, Colorado. The Cytel telemarketer who called Ms. Cuellar from that number "never mentioned anything about long distance carriers."); Complaint from K. and D. Garcia (received a call on July 14, 2015, from a TeleUno telemarketer that, according to the caller identification, appeared to be from "US Govt Postal" at (303) 814-6932.); Complaint from K. Gonzalez (noted that the caller identification was (305) 931-5175, and the TeleUno telemarketer's name identified was "Perez."); Complaints from I. Pelaez (OneLink) and S. Hernandez (TeleUno) (these complainants noted that the telemarketer(s) called from (305) 858-8219); Complaint from E. Ramirez (stated that the OneLink telemarketer was "Leeza Gomez" calling from (505) 890-1813); Complaint from G. Hernandez-Diaz De Villegas (the TeleUno telemarketer was identified as "Stephanie Delgado" calling from (214) 341-1782); Complaint from M. Merchan, on behalf of C. Merchan (TeleDias telemarketer said his name was Andres Martinez, and instructed her to call 305 930 3109, but the caller identification on her telephone said Ramon Mesa at 305 262 3248 had called.). Despite the fact that these telemarketing calls appeared on the complainants' caller identification as originating from Colorado, Florida, Texas, and New Mexico, the Companies claim that their telemarketers are located in Bolivia and Colombia. See, e.g., OneLink Response at 33.

support our finding that the Companies are conducting business in an entirely fraudulent manner. We also find it egregious that in several instances consumers were assessed unauthorized charges by more than one of the Companies.¹⁷⁹

31. The practice of slamming and cramming is more than a mere inconvenience for consumers. Several elderly consumers filed complaints (or had complaints filed on their behalf). For example, Complainant Martin stated “Teledias is issuing me only a partial refund for all my troubles and using my sick, and now deceased, mother in this manner.”¹⁸⁰ Complainant J. Rodriguez explained, “[m]y elderly mother got a call from someone claiming to be AT&T . . . and now Teleuno charges listed as USBI on her phone bill have started appearing. . . They did this WITHOUT her consent. AT&T refuses to do anything, saying she authorized the charges, which isn’t true.”¹⁸¹ Complainant Alonso explained that his “mother simply answered questions regarding an ‘undelivered USPS package’ to some lady on the phone and they apparently took those responses and injected them into some type of verbal agreement to switch [carriers to TeleUno]. Please note that my parents are 89 and 91 therefore this is a crime against the elderly.”¹⁸² Complainant Mondragon Abbot said, after listening to the TeleDias TPV, “I do not recognize this as being my voice, . . . nor do I recognize the voice of the woman speaking Spanish, nor did I ever have . . . this conversation . . . nor do I understand everything that has been said in Spanish on this recording. . . . Please, it is time for you to protect the elderly and disabled from con-artists.”¹⁸³ Complainant Alpizar stated, “ I am [an] 88 year old widow on a fixed income, and ONELINK COMM INC once again shows up on my AT&T bill which I never gave anyone permission to do. I feel that I am being taken advantage of because of my age.”¹⁸⁴

32. Many complainants describe the difficulty and frustration encountered when trying to remove the Companies’ unauthorized charges from their telephone bills. Complainant Guerrero, who had tried for months to have the OneLink charges removed from his telephone bill, stated “I want OneLink Comm. to stop doing this and stop placing that fraudulent and ridiculous charge on my bill. STOP IT!!!”¹⁸⁵ Complainant Rinaldi, after numerous attempts to obtain a credit from Cytel, stated that “this type of aggressive behavior needs to be vigorously confronted and appropriate fines and/or other penalties imposed.”¹⁸⁶ Typically, even if discovered early, consumers had to make numerous telephone calls to resolve the problem and generally were not offered full refunds by the third party carriers (at least until a complaint was filed). For example, Complainant Martin explains: “This is fraud and there should be a way to prevent them, and others, from doing this. I have better things to do with my time than spend hours on the phone resolving this problem [with OneLink].”¹⁸⁷

¹⁷⁹ Complaint from R. Castaneda, on behalf of R. Montejó (OneLink and TeleUno) (not in Appendix, complaint filed November 17, 2014, OneLink response and TPV submitted March 27, 2015); Complaint from R. Cordona (TeleUno and OneLink); Complaint from S. Rodriguez (TeleDias and TeleUno); Complaint from G. Ortiz, on behalf of C. Garcia, a Lifeline customer (OneLink and TeleDias); Complaint from L. and J. Vasquez (Cytel and TeleUno); Complaint from D. Almaral, on behalf of R. Garcia (TeleDias and OneLink); Complaint from E. Villarreal (OneLink and TeleUno); Complaint from I. Menendez (TeleDias and TeleUno); Complaint from R. Otalora (TeleDias and TeleUno); Complaint from L. Diaz (TeleUno and TeleDias); Complaint from C. Alonso (TeleUno and Cytel); Complaint from W. Bregon (OneLink and TeleUno); Complaint from N. Fernandini (TeleUno and Cytel); Complaint from E. Valencia (OneLink and TeleUno).

¹⁸⁰ Complaint from J. Martin.

¹⁸¹ Complaint from J. Rodriguez, on behalf of S. Rodriguez.

¹⁸² Complaint from C. Alonso.

¹⁸³ Complaint from A. Mondragon Abbott.

¹⁸⁴ Complaint from E. Alpizar (not in Appendix, complaint filed July 8, 2014, OneLink response submitted July 11, 2014).

¹⁸⁵ Complaint from C. Guerrero.

¹⁸⁶ Complaint from P. Rinaldi.

33. Complainant Riquer explains a similar ordeal in trying to remove the unauthorized charges from her AT&T account:

I have unlimited long distance with AT&T. I was switched to Teledias without my knowledge or consent. As soon as I received my bill . . . I immediately switched back to AT&T. I informed Teledias that I never authorized the change and I requested full credit for the charges. A month later I only received a credit for \$5.95 and . . . I requested to speak to a supervisor and they disconnected the call. My next 5 calls I received conflicting information, such as there was no supervisor in, and . . . [o]n all the 5 calls I was hung up on. This is a devious, fraudulent company and I hope something can be done about this.¹⁸⁸

Other complainants relate similar experiences in trying to resolve the unauthorized charges and carrier changes with the Companies.¹⁸⁹

34. Given the egregiousness of the Companies' conduct and the substantial harm they caused consumers, a significant upward adjustment to the base forfeiture is appropriate. Under Section 503 of the Act, and the Commission's forfeiture guidelines, we must take into account the egregious and repeated nature of the Companies' actions, as well as the substantial harm that they caused consumers. As described above, the Companies engaged in slamming and cramming repeatedly and placed unauthorized charges on consumers' bills numerous times. Although we have considered each consumer complaint for cramming as one cram, many consumers reported multiple unauthorized charges on their

(Continued from previous page)

¹⁸⁷ Complaint from J. Martin.

¹⁸⁸ Complaint from A. Riquer.

¹⁸⁹ See, e.g., Complaint from R. Castaneda, on behalf of R. Montejo (not in Appendix, complaint filed November 17, 2014, OneLink response and TPV submitted March 27, 2015) ("This has caused me hours on the phone with all the companies involved to try to fix the billing problems."); Complaint from M. Azua ("[T]o my disbelief I'm being charged \$6.47 since Dec. 2014 from a company I have never even heard of before . . . So I try contacting them, it took me several phone calls prior to getting someone on the phone and once I did they [were] unfriendly, rude, and totally unprofessional. . . I know I never authorized anything with them."); Complaint from M. Garza ("The cytel number goes to a voicemail system and no one ever calls back. USBI gives me a number of 8777675042 and when I call them I get a really rude man who says he's with teleuno."); Complaint from L. Aranda (explaining that after she called Cytel to complain about the unauthorized charges, "the Cytel representative said to phone AT&T back and for them to reimburse me for the \$4.95 charged. He said it was AT&T's problem."); Complaint from B. Duran ("I never authorized a change in my long distance and when I tried to call [TeleDias] to cancel the charges they never answer my calls."); Complaint from V. Silva ("[T]hey refuse to cancel that bogus charge. . . I want to have that fraudulent [OneLink] charge removed from my bill and I want a whole complete credit since I owe them nothing and I want nothing with that people."); Complaint from A. Gonzales ("ATT NEVER credited the previous months [of TeleDias unauthorized charges] and went ahead and charged me another 6.38 even after I was told that they would make a note of my complaint about this fraud."); Complaint from M. Ramirez (AT&T refused to give her a credit [for the unauthorized OneLink charges] and they "assume that she or someone in her house added the service. . . She is upset that AT&T is aware of these issues and still allow it."); Complaint from R. Diaz (not in Appendix, complaint filed March 4, 2015, OneLink response and TPV submitted March 5, 2015) ("I again called USBI and [I explained that I wanted all credit for all four months of unauthorized OneLink charges,] the woman who answered my call said that USBI only credits people one time and they had already credited me [\$]6.30 a couple of days before. She did not want to hear anything and quickly hanged up on me. I called ATT and they kept telling me that there is nothing ATT could do, that it was something between USBI and I."); Complaint from J. Roberts, on behalf of A. Manteiga ("I have contacted ATT and requested a refund [of the Cytel charges] and they are authorizing a refund of the \$2.96 but not the monthly charge of \$4.95"); Complaint from D. Tejada ("I immediately contacted AT&T and informed them that I did not know who USBI or OneLink Comm [were] and did not authorize AT&T to charge me on their behalf. I was informed . . . that they could not remove these charges and that I would have to contact the 3rd party directly. . . I informed OneLink . . . that the alleged authorization was . . . fraudulent. [After receiving another charge] I recontacted AT&T to inform them of these unauthorized charges. AT&T again informed me that they were unable to remove these charges or credit my account.").

telephone bills within our statute of limitations. In addition, several complainants were slammed and/or crammed by more than one of the Companies.¹⁹⁰

35. We also consider the longstanding nature of this scheme in determining the amount of the proposed forfeiture. The Companies have been engaged in these activities for several years, and have profited from such egregious conduct. As discussed above, the same egregious conduct was described in the Iowa investigations in 2010¹⁹¹ and in complaints filed with the Commission in 2014.¹⁹² In 2010, in the Iowa investigation, the consumer contended “that the voice on the TPV recording sounds a little bit like his wife’s voice, but she does not speak whatever language is being spoken in the recording. He also indicated that this wife’s first name is not Jane [the person TeleDias claimed authorized the service].”¹⁹³ Thus, in 2010 the Companies were on notice of the fabricated TPVs; yet, the egregious conduct continued. Older complaints filed with the Commission in 2014 describe numerous instances of the fake package scam and other fabricated TPVs. For example, Complainant Portela, after listening to the TPV, said that the recording “was of a woman who claimed to be my wife but the customer in the recording sounding nothing like my wife. Even the accent was different (Central/South American and my wife is of Caribbean descent).”¹⁹⁴ This description, and the other older consumer complaints, some of which are summarized above, demonstrate that the Companies were using fabricated TPVs two years ago in order to thwart investigations of slamming. In this NAL, more recent complaints discussed herein have many examples of the Companies’ telemarketer pretended that he or she was calling from the U.S. Post Office, or elsewhere, about a non-existent package, in order to create a fake “authorization” from the recorded telephone call. After listening to the TPVs, complainants were adamant that the recorded voices were not theirs, in fact some complainants do not speak Spanish, the language used for most of the TPVs. In one instance described above, the fake TPV was apparently created by recording the complainant’s telephone call to TeleUno’s own customer service department to complain about the unauthorized charges. The Companies submitted their fake TPV recordings to the Commission and to state commissions in order to thwart the ability of regulatory agencies to enforce carrier change rules and protect consumers. Consumers, including the elderly, were greatly inconvenienced by the Companies’ egregious acts and encountered significant difficulties when they tried to receive a credit for the unauthorized charges.

36. Given the extent of the improper conduct and misrepresentations to the American public over a period of many years, despite repeated warnings from the Commission during this time period that deceptive marketing practices would be met with significant and substantial penalties, we propose an upward adjustment of for each instance of slamming and cramming, to \$120,000 per violation (i.e., an upward adjustment of \$80,000 per violation) and an additional two million dollars (i.e., \$500,000 for each Company).¹⁹⁵ In the event the Companies continue to engage in conduct that apparently violates Section 201(b)’s prohibition against unjust and unreasonable practices and Section 258 and Section 64.1200 of the carrier change procedures, such apparent violations could result in future NALs proposing substantially greater forfeitures. In addition, in light of the Companies’ egregious misconduct and the demonstrated harm to consumers from the apparent violations, we will consider initiating proceedings

¹⁹⁰ See note 179, *supra*.

¹⁹¹ See para. 13, for a discussion of the Iowa investigations.

¹⁹² See para. 14.

¹⁹³ Iowa TeleDias Investigation at Bates No. TeleDias-0004376.

¹⁹⁴ Complaint from A. Portela (not in Appendix). TeleUno was served with the complaint and submitted a response and TPV on June 25, 2014.

¹⁹⁵ The Commission has proposed similar upward adjustments for egregious behavior in recent slamming and cramming cases. See *Central NAL*, 29 FCC Rcd at 5531, para. 28 (proposing an upward adjustment of \$1,500,000 to the base forfeiture of \$1,960,000); *USTLD NAL*, 29 FCC Rcd at 837, para. 27 (proposing an upward adjustment of \$2,000,000 to the base forfeiture of \$2,480,000); *CTI NAL*, 28 FCC Rcd at 17209, para. 29 (proposing an upward adjustment of \$1,500,000 to the base forfeiture of \$1,560,000). These prior NALs also included additional upward adjustments of \$500,000 or \$750,000 for targeting elderly consumers.

against the Companies to revoke their Commission authorizations after the Companies have an opportunity to respond to this Notice of Apparent Liability for Forfeiture.

37. Accordingly, given the circumstances here, we propose, in sum, forfeitures of \$8,020,000 (OneLink), \$7,660,000 (TeleDias), \$9,620,000 (TeleUno), and \$4,300,000 (Cytel), for a total proposed forfeiture of \$29,600,000.

IV. CONCLUSION

38. Based on the facts and record before us, we have determined that OneLink Communications, Inc., TeleDias Communications, Inc., TeleUno, Inc., and Cytel, Inc., have apparently willfully and repeatedly violated Sections 201(b) and 258 of the Act and Sections 1.17 and 64.1120 of the Rules and we propose a forfeiture amount of \$8,020,000 (OneLink), \$7,660,000 (TeleDias), \$9,620,000 (TeleUno), and \$4,300,000 (Cytel), a total proposed forfeiture of \$29,600,000.

V. ORDERING CLAUSES

39. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act¹⁹⁶ and Section 1.80 of the Commission's rules,¹⁹⁷ OneLink Communications, Inc., TeleDias Communications, Inc., TeleUno, Inc., and Cytel, Inc., are hereby **NOTIFIED** of this **APPARENT LIABILITY FOR FORFEITURE** in the amounts of \$8,020,000 (OneLink Communications, Inc.), \$7,660,000 (TeleDias Communications, Inc.), \$9,620,000 (TeleUno, Inc.), and \$4,300,000 (Cytel, Inc.), for willful and repeated violations of Sections 201(b) and 258 of the Act,¹⁹⁸ and Sections 1.17 and 64.1120, of the Commission's rules.¹⁹⁹

40. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules,²⁰⁰ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, OneLink Communications, Inc., TeleDias Communications, Inc., TeleUno, Inc., and Cytel, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 38 below.

41. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. OneLink Communications, Inc., TeleDias Communications, Inc., TeleUno, Inc., and Cytel, Inc., shall send electronic notification of payment to Johnny Drake at johnny.drake@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁰¹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank–Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

¹⁹⁶ 47 U.S.C. § 503(b).

¹⁹⁷ 47 CFR § 1.80.

¹⁹⁸ 47 U.S.C. §§ 201(b), 258.

¹⁹⁹ 47 CFR §§ 1.17, 64.1120.

²⁰⁰ 47 CFR § 1.80.

²⁰¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

42. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.²⁰² Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

43. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Commission's rules.²⁰³ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau, Telecommunications Consumers Division, and to Richard A. Hindman, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Mika Savir and Erica McMahon at mika.savir@fcc.gov and erica.mcmahon@fcc.gov.

44. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

45. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Michael Donahue and Jane L. Wagner, Marashlian & Donahue, PLLC, attorneys for OneLink Communications, Inc., TeleDias Communications, Inc., TeleUno, Inc., and Cytel, Inc., 1420 Spring Hill Road, Suite 401, McLean, VA 22102.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

²⁰² See 47 CFR § 1.1914.

²⁰³ 47 CFR §§ 1.16, 1.80(f)(3).

APPENDIX

Complainant	Date of carrier change or unauthorized charge and of Section 1.17 violation
P. Lamas	TeleUno cram 2/19/15
R. Rocha	TeleUno cram 2/21/15
K. Gonzalez	TeleUno slam 2/24/15
R. Barraza	TeleUno slam 2/24/15
W. Bregon	TeleUno cram 2/28/15
E. Valencia	TeleUno cram 3/11/15
M. Castro	TeleUno cram 3/13/15; 1.17 violation 8/4/15
J. Morales	TeleUno cram 3/20/15; 1.17 violation 3/11/15
L. Haro	TeleUno cram 3/28/15; 1.17 violation 4/14/15
J. Rodriguez, on behalf of S. Rodriguez	TeleUno slam 3/31/15; 1.17 violation 6/16/15
E. Cabral	TeleUno slam 4/1/15; 1.17 violation 8/20/15
G. Hernandez-Diaz De Villegas	TeleUno slam 4/1/15
F. Huerta	TeleUno slam 4/1/15
E. Umpierrez	TeleUno slam, 4/4/15; 1.17 violation 7/7/15
V. Pineda	TeleUno slam 4/20/15
N. Pimienta	TeleUno slam 4/22/15; 1.17 violation 5/7/15
P. Castillo	TeleUno cram 4/22/15
F. Fernandez	TeleUno slam 4/23/15
R. Otolora	TeleUno slam 4/25/15
B. Velez, on behalf of R. Nunez	TeleUno cram 4/26/15; 1.17 violation 4/3/15
C. Alonso	TeleUno slam 4/28/15; 1.17 violation 6/10/15
H. Iniguez	TeleUno cram 5/4/15
A. Diaz	TeleUno cram 5/4/15
F. Murillo	TeleUno slam 5/14/15
B. Aragon	TeleUno slam 5/14/15
A. Llano	TeleUno slam 5/15/15
I. Menendez	TeleUno cram 5/28/15
A. Flores	TeleUno cram 6/1/15
J. Gonzalez	TeleUno slam 6/2/15; 1.17 violation 7/27/15
T. Salazar	TeleUno slam 6/8/15
I. Mendez	TeleUno cram 6/17/15
M. Real-Leflar	TeleUno slam 6/24/15
R. Ortiz	TeleUno cram 7/5/15; 1.17 violation 10/15/15
L. Gutierrez	TeleUno cram 7/9/15
S. Serrano	TeleUno slam 7/13/15; 1.17 violation 8/19/15
K. & D. Garcia	TeleUno slam 7/14/15
M. Cruz	TeleUno slam 7/16/15
S. Hernandez	TeleUno slam 7/16/15; 1.17 violation 8/6/15
L. Gonzalez	TeleUno slam 8/5/15; 1.17 violation 10/6/15
D. Castellanos	TeleUno slam 8/7/15; 1.17 violation 9/10/15
M. Carrillo	TeleUno slam 9/16/15; 1.17 violation 12/3/15
J. Acevedo	TeleUno cram 9/15/15
E. Bequer	TeleUno cram 9/20/15; 1.17 violation 10/20/15
M. Orozco	TeleUno cram 10/4/15; 1.17 violation 10/15/15
C. Anguiano, on behalf of R. Gomez	TeleUno slam 10/7/15

A. Di Pane	TeleUno slam 10/13/15
T. Ducoffe	TeleUno cram 10/19/15; 1.17 violation 10/30/15
M. Garcia	TeleUno slam 10/29/15; 1.17 violation 12/3/15
M. Ramirez	OneLink cram 2/22/15; 1.17 violation 3/12/15
Y. Ruiz de Castilla, on behalf of T. Ruiz de Castilla	OneLink cram 3/1/15; 1.17 violation 3/17/15
G. Fernandez	OneLink cram 3/6/15
A. Azambuya, on behalf of M. Sosa	OneLink slam 3/18/15
C. Guerrero	OneLink slam 3/20/15; 1.17 violation 4/30/15
D. Tejada	OneLink slam 3/24/15; 1.17 violation 6/8/15
R. Cordona	OneLink cram 3/28/15
D. Almaral	OneLink slam 4/7/15; 1.17 violation 7/27/15
V. Silva	OneLink cram 4/10/15
M. Escalante	OneLink slam 4/13/15; 1.17 violation 8/6/15
I. Cornejo	OneLink slam 4/13/15; 1.17 violation 5/29/15
R. Rodezno	OneLink slam 4/29/15
T. Joseph	OneLink cram 5/1/15; 1.17 violation 5/13/15
J. Lax	Onelink cram 5/1/15; 1.17 violation 3/11/15
J. Sanchez, on behalf of J. Suarez	OneLink slam 5/8/15
J. Franco	OneLink cram 5/12/15
H. Del Aguila	OneLink slam 5/20/15; 1.17 violation 8/4/15
M. Orellana de Granillo	OneLink slam 5/21/15; 1.17 violation 7/20/15
A. Velez	OneLink cram 5/22/15
J. Martin	OneLink slam 5/23/15; 1.17 violation 9/21/15
F. Torres, on behalf of S. Torres	OneLink slam 6/12/15
A. Morales	OneLink slam 6/16/15; 1.17 violation 7/27/15
J. Arvizu	OneLink slam 7/2/15
T. Loebach	OneLink cram 7/4/15; 1.17 violation 7/15/15
L. Espino	OneLink slam 7/6/15; 1.17 violation 8/19/15
J. Arellano	OneLink slam 7/6/15
C. Cuevas	OneLink cram 7/25/15
I. Pelaez	OneLink slam 7/23/15; 1.17 violation 10/12/15
A. Santiago, on behalf of F. Santiago	OneLink slam 7/23/15; 1.17 violation 10/7/15
C. Garcia	OneLink cram 9/17/15
E. Rameriz	OneLink slam 9/5/15
T. Gamba	OneLink cram 9/20/15
E. Herrera	OneLink slam 9/23/15; 1.17 violation 11/6/15
E. Citrinblum	OneLink slam 9/25/15
E. Liste	OneLink slam 10/1/15
I. Guerrero	OneLink slam 11/13/15; 1.17 violation 12/9/15
B. Carter	TeleDias cram 3/1/15; 1.17 violation 4/15/15
M. Azua	TeleDias cram 3/1/15; 1.17 violation 3/18/15
C. Chavarria	TeleDias cram 3/5/15
J. Meade	TeleDias slam 3/10/15; 1.17 violation 5/20/15
M. Ibarra	TeleDias slam 3/25/15; 1.17 violation 8/4/15
A. Gonzalez	TeleDias cram 3/25/15
J. Gamez	TeleDias cram 3/27/15
J. Emerson	TeleDias slam 3/27/15
H. Gonzalez	TeleDias slam 3/31/15; 1.17 violation 7/1/15

A. Riquer	TeleDias slam 3/31/15; 1.17 violation 5/22/15
F. Ramirez	TeleDias slam 4/14/15
L. Figueroa	TeleDias slam 4/17/15
M. Merchan, on behalf of C. Merchan	TeleDias slam 4/21/15
L. Garcia	TeleDias slam 5/5/15
A. Alejandro, Jr.	TeleDias slam 5/7/15; 1.17 violation 7/1/15
W. Marin, on behalf of O. Medina	TeleDias slam 5/7/15; 1.17 violation 7/27/15
L. Diaz	TeleDias slam 5/12/15; 1.17 violation 9/25/15
B. Martin	TeleDias cram 5/14/15; 1.17 violation 6/24/15
F. Yates	TeleDias slam 5/27/15
J. Lopez	TeleDias slam 5/28/15; 1.17 violation 6/19/15
F. Cadena	TeleDias slam 6/16/15; 1.17 violation 7/23/15
A. Castaneda	TeleDias slam 6/22/15
M. Ortiz	TeleDias slam 6/22/15
M. Roy-Franco	TeleDias slam 6/23/15; 1.17 violation 10/20/15
L. Resendis	TeleDias slam 7/8/15
C. Trevino	TeleDias slam 7/9/15
J. Martin	TeleDias cram 7/11/15; 1.17 violation 8/3/15
E. Alvarez	TeleDias slam 7/13/15
F. Maldonado	TeleDias cram 7/15/15
J. Munoz, on behalf of M. Garduno	TeleDias cram 7/22/15; 1.17 violation 8/4/15
S. Cunningham	TeleDias cram 7/24/15
R. Salazar	TeleDias cram 7/28/15
A. Mondragon Abbott	TeleDias slam 8/3/15; 1.17 violation 10/12/15
M. Martinez	TeleDias slam 8/20/15
B. Duran	TeleDias cram 9/2/15
M. Esquivel	TeleDias cram 9/13/15
C. Martinez, on behalf of F. Martinez	TeleDias slam 11/1/15
Z. Rojas	Cytel cram 2/15/15
L. Aranda	Cytel cram 3/5/15
D. Spice	Cytel slam 3/11/15
M. Mendez	Cytel slam 3/13/15
M. Ortiz	Cytel slam 3/16/15
L. & J. Vasquez	Cytel cram 3/21/15
P. Rinaldi	Cytel slam 3/20/15; 1.17 violation 5/29/15
A. Velasquez	Cytel slam 3/31/15; 1.17 violation 9/9/15
D. Leal	Cytel cram 4/30/15
N. Fernandini	Cytel cram 5/1/15
E. Perez-Montalvo	Cytel slam 5/5/15; 1.17 violation 8/4/15
L. Diaz	Cytel slam, 5/5/15; 1.17 violation 5/26/15
J. Garcia	Cytel slam 5/12/15
M. Galarza, on behalf of E. Ortega	Cytel cram 5/14/15
J. Roberts, on behalf of A. Manteiga	Cytel cram 5/17/15
R. Garcia	Cytel slam 6/30/15
J. Vinageras	Cytel cram 7/3/15; 1.17 violation 8/6/15
L. Cuellar	Cytel cram 7/7/15
M. Aguilar	Cytel cram 7/28/15; 1.17 violation 8/19/15
M. Garza	Cytel cram 7/28/15; 1.17 violation 8/19/15
L. Martinez	Cytel cram 8/3/15

**STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *OneLink Communications, Inc.*, File No. EB-TCD-13-00007004, NAL/Acct. No.: 201632170001, FRN: 0007539471; *TeleDias Communications, Inc.*, File No. EB-TCD-16-00020892 NAL/Acct. No.: 201632170002, FRN: 0007513815; *TeleUno, Inc.*, File No. EB-TCD-16-00020893, NAL/Acct. No.: 201632170003, FRN: 0005835558; *Cytel, Inc.*, File No. EB-TCD-16-00020894, NAL/Acct. No.: 201632170004, FRN: 0020071205.

Over the past several years, we've increasingly seen hucksters and criminals profit from reselling telephone services to American consumers without their consent. As I remarked last year, there is now a market for fraud. It's a market in which "fly-by-night operators have figured out how to profit from skirting our rules rather than complying with them."¹ And it's a market our own rules created because they specifically prohibit a carrier from verifying whether a carrier-change request is legitimate or not.²

Today's case may be the worst yet. OneLink and its affiliates (OneLink) allegedly used telemarketers to pretend to be package delivery companies in order to trick consumers into reciting certain words like "Yes" or "051580." OneLink even went so far as to spoof telephone numbers so that a consumer looking at caller ID would think the Post Office was calling. OneLink then spliced the recordings it made of these calls together with a standard third-party verification tape to justify changing their telephone carrier. And it specifically targeted Americans with Latino surnames, sometimes including Spanish recordings even when the target didn't speak Spanish. To put it mildly, OneLink's conduct was appalling.

That's why I'm grateful to my colleagues for agreeing with my two key requests in this matter. *First*: to prosecute OneLink for the full \$29.6 million forfeiture it deserves under our precedent. *Second*: to consider revoking OneLink's authorizations to offer telephone service in the United States once it has an opportunity to respond to this Notice of Apparent Liability. For conduct this egregious, the book should be thrown.

¹ *GPSPS, Inc.*, File No.: EB-TCD-14-00016988, NAL/Acct. No.: 201532170011, FRN: 0022128334, Forfeiture Order, 30 FCC Rcd 7814, 7817 (2015) (Statement of Commissioner Ajit Pai).

² 47 C.F.R. § 64.1120(a)(2) ("An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier.").